

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

In the Matter of the Accusation Against:

**DANA DRUGS; ASHRAF ADEL ZAKY-
Pharmacist-in-Charge, President
317 N. Pass Avenue
Burbank, CA 91505
Permit No. PHY 47547**

**ASRAF ADEL ZAKY
19551 Shadow Ridge Way
Northridge, CA 91326
Pharmacist License No. RPH 48538**

**LILIT POGOSYAN, AKA
LILIT NOURANI
501 W. Glenoaks Blvd., #551
Glendale, CA 91202
Pharmacist License No. 53686**

Respondents.

Case No. 4186

OAH NO. 2013051132

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

AS TO:

**LILIT POGOSYAN, AKA
LILIT NOURANI**

DECISION AND ORDER

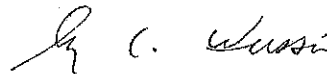
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on May 7, 2014.

It is so ORDERED on April 30, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
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14 **Pharmacist-in-Charge, President**
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18 **STIPULATED SETTLEMENT AND**
19 **DISCIPLINARY ORDER**

20 **AS TO:**

21 **ASHRAF ADEL ZAKY**
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24 **Pharmacist License No. RPH 48538**

25 **LILIT POGOSYAN, AKA**
26 **LILIT NOURANI**

27 **LILIT POGOSYAN, AKA**
28 **LILIT NOURANI**
29 **501 W. Glenoaks Blvd., #551**
30 **Glendale, CA 91202**
31 **Pharmacist License No. RPH 53686**

32 Respondents.

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

35 **PARTIES**

36 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy
37 ("Board"). She brought this action solely in her official capacity and is represented in this matter
38

1 by Kamala D. Harris, Attorney General of the State of California, by Linda L. Sun, Deputy
2 Attorney General.

3 2. Respondent Lilit Pogosyan, a.k.a. Lilit Nourani ("Respondent") is represented in this
4 proceeding by attorney Edward C. Stark, Esq., whose address is: Cron, Israels & Stark, 1541
5 Ocean Avenue, Suite 200, Santa Monica, CA 90401.

6 3. On or about August 22, 2002, the Board issued Original Pharmacist License Number
7 RPH 53686 to Respondent. The License was in full force and effect at all times relevant to the
8 charges brought herein and will expire on November 30, 2015, unless renewed.

9 JURISDICTION

10 4. Accusation No. 4186 was filed before the Board and is currently pending against
11 Respondent. The Accusation and all other statutorily required documents were properly served
12 on Respondent on April 8, 2013. Respondent timely filed her Notice of Defense contesting the
13 Accusation.

14 5. A copy of Accusation No. 4186 is attached as Exhibit A and incorporated herein by
15 reference.

16 ADVISEMENT AND WAIVERS

17 6. Respondent has carefully read, fully discussed with counsel, and understands the
18 charges and allegations in Accusation No. 4186. Respondent has also carefully read, fully
19 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
20 Order.

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

28

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Pharmacist License Number RPH 53686 issued to
9 Respondent Lilit Pogosyan, a.k.a. Lilit Nourani is revoked. However, the revocation is stayed
10 and Respondent is placed on probation for thirty (30) months on the following terms and
11 conditions.

12 **1. Obey All Laws**

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

14 Respondent shall report any of the following occurrences to the Board, in writing, within
15 seventy-two (72) hours of such occurrence:

- 16 • an arrest or issuance of a criminal complaint for violation of any provision of the
17 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
18 substances laws
- 19 • a plea of guilty or *nolo contendere* in any state or federal criminal proceeding to any
20 criminal complaint, information or indictment
- 21 • a conviction of any crime
- 22 • discipline, citation, or other administrative action filed by any state or federal agency
23 which involves Respondent's Pharmacist License or which is related to the practice of
24 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
25 for any drug, device or controlled substance.

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

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28 ///

1 **2. Report to the Board**

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

10 **3. Interview with the Board**

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

16 **4. Cooperate with Board Staff**

17 Respondent shall cooperate with the Board's inspection program and with the Board's
18 monitoring and investigation of Respondent's compliance with the terms and conditions of her
19 probation. Failure to cooperate shall be considered a violation of probation.

20 **5. Continuing Education**

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

23 **6. Notice to Employers**

24 During the period of probation, Respondent shall notify all present and prospective
25 employers of the decision in Case Number 4186 and the terms, conditions and restrictions
26 imposed on Respondent by the Decision, as follows:

27 Within thirty (30) days of the effective date of this Decision, and within fifteen (15) days of
28 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,

1 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
2 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
3 individual(s) has/have read the Decision in Case Number 4186, and terms and conditions imposed
4 thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or
5 supervisor(s) submit timely acknowledgment(s) to the Board.

6 If Respondent works for or is employed by or through a pharmacy employment service,
7 Respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
8 licensed by the Board of the terms and conditions of the Decision in Case Number 4186 in
9 advance of the Respondent commencing work at each licensed entity. A record of this
10 notification must be provided to the Board upon request.

11 Furthermore, within thirty (30) days of the effective date of this Decision, and within fifteen
12 (15) days of Respondent undertaking any new employment by or through a pharmacy
13 employment service, Respondent shall cause her direct supervisor with the pharmacy
14 employment service to report to the Board in writing acknowledging that s/he has read the
15 Decision in Case Number 4186 and the terms and conditions imposed thereby. It shall be
16 Respondent's responsibility to ensure that their employer(s) and/or supervisor(s) submit timely
17 acknowledgment(s) to the board.

18 Failure to timely notify present or prospective employer(s) or to cause that/those
19 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
20 probation.

21 "Employment" within the meaning of this provision shall include any full-time,
22 part-time, temporary, relief or pharmacy management service as a pharmacist or any
23 position for which a pharmacist license is a requirement or criterion for employment,
24 whether the Respondent is an employee, independent contractor or volunteer.

25 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
26 **Designated Representative-in-Charge, or Serving as a Consultant**

27 During the period of probation, Respondent shall not supervise any intern pharmacist, be
28 the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the

1 Board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
2 unauthorized supervision responsibilities shall be considered a violation of probation.

3 **8. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, Respondent shall pay to the
5 Board its costs of investigation and prosecution in the amount of \$1,800. Respondent shall be
6 allowed to make scheduled installments as determined by the Board.

7 There shall be no deviation from the schedule absent prior written approval by the Board or
8 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
9 probation.

10 The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility
11 to reimburse the Board its costs of investigation and prosecution.

12 **9. Probation Monitoring Costs**

13 Respondent shall pay any costs associated with probation monitoring as determined by the
14 Board each and every year of probation. Such costs shall be payable to the Board on a schedule
15 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
16 shall be considered a violation of probation.

17 **10. Status of License**

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

21 If Respondent's license expires or is cancelled by operation of law or otherwise at any time
22 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
23 renewal or reapplication Respondent's license shall be subject to all terms and conditions of this
24 probation not previously satisfied.

25 **11. License Surrender While on Probation/Suspension**

26 Following the effective date of this Decision, should Respondent cease practice due to
27 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
28 Respondent may tender their license to the Board for surrender. The Board or its designee shall

1 have the discretion whether to grant the request for surrender or take any other action it deems
2 appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent
3 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
4 record of discipline and shall become a part of the Respondent's license history with the Board.

5 Upon acceptance of the surrender, Respondent shall relinquish her pocket and wall license
6 to the Board within ten (10) days of notification by the Board that the surrender is accepted.
7 Respondent may not reapply for any license from the Board for three (3) years from the effective
8 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
9 of the date the application for that license is submitted to the Board, including any outstanding
10 costs.

11 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
12 **Employment**

13 Respondent shall notify the Board in writing within ten (10) days of any change of
14 employment. Said notification shall include the reasons for leaving, the address of the new
15 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
16 shall further notify the Board in writing within ten (10) days of a change in name, residence
17 address, mailing address, or phone number.

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

20 **13. Tolling of Probation**

21 Except during periods of suspension, Respondent shall, at all times while on probation, be
22 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.
23 Any month during which this minimum is not met shall toll the period of probation, i.e., the
24 period of probation shall be extended by one month for each month during which this minimum is
25 not met. During any such period of tolling of probation, Respondent must nonetheless comply
26 with all terms and conditions of probation.

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

1 Respondent must notify the Board in writing within ten (10) days of the cessation of practice, and
2 must further notify the Board in writing within ten (10) days of the resumption of practice. Any
3 failure to provide such notification(s) shall be considered a violation of probation.

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

7 "Cessation of practice" means any calendar month during which Respondent is
8 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and
9 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
10 month during which Respondent is practicing as a pharmacist for at least forty (40)
11 hours as a pharmacist as defined by Business and Professions Code section 4000 et
12 seq.

13 **14. Violation of Probation**

14 If Respondent has not complied with any term or condition of probation, the Board shall
15 have continuing jurisdiction over Respondent, and probation shall automatically be extended,
16 until all terms and conditions have been satisfied or the Board has taken other action as deemed
17 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
18 to impose the penalty that was stayed.

19 If Respondent violates probation in any respect, the Board, after giving Respondent notice
20 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
21 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
22 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
23 a petition to revoke probation or an accusation is filed against Respondent during probation, the
24 Board shall have continuing jurisdiction and the period of probation shall be automatically
25 extended until the petition to revoke probation or accusation is heard and decided.

26 **15. Completion of Probation**

27 Upon written notice by the Board or its designee indicating successful completion of
28 probation, Respondent's license will be fully restored.

1 **16. Community Services Program**

2 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
3 Board or its designee, for prior approval, a community service program in which Respondent
4 shall provide free health-care related services on a regular basis to a community or charitable
5 facility or agency for at least fifty (50) hours per year for the first two (2) years of probation.

6 Within thirty (30) days of Board approval thereof, Respondent shall submit documentation to the
7 Board demonstrating commencement of the community service program. A record of this
8 notification must be provided to the Board upon request. Respondent shall report on progress
9 with the community service program in the quarterly reports. Failure to timely submit,
10 commence, or comply with the program shall be considered a violation of probation.

11 **17. No Ownership of Licensed Premises**

12 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
13 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
14 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell
15 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
16 days following the effective date of this Decision and shall immediately thereafter provide written
17 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide
18 documentation thereof shall be considered a violation of probation.

19 **18. Ethics Course**

20 Within sixty (60) calendar days of the effective date of this Decision, Respondent shall
21 enroll in a course in Ethics, at Respondent's expense, approved in advance by the Board or its
22 designee. Failure to initiate the course during the first year of probation, and complete it within
23 the second year of probation, is a violation of probation.

24 Respondent shall submit a certificate of completion to the Board or its designee within five
25 days after completing the course.

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27 ///
28 ///

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Edward C. Stark, Esq.. 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: 2/20/14


9 LILIT POGOSYAN, AKA LILIT NOURANI
Respondent

10 I have read and fully discussed with Respondent Lilit Pogosyan, a.k.a. Lilit Nourani the
11 terms and conditions and other matters contained in the above Stipulated Settlement and
12 Disciplinary Order. I approve its form and content.

13 DATED: 2/20/14


14 Edward C. Stark, Esq.
Attorney for Respondent

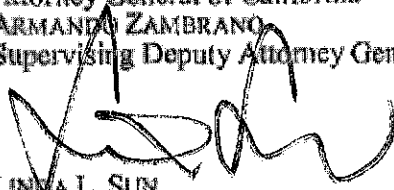
15 ENDORSEMENT

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

18 Dated: 2/20/14

Respectfully submitted,

19 KAMALA D. HARRIS
20 Attorney General of California
21 ARMANDO ZAMBRANO
Supervising Deputy Attorney General


22 LINDA L. SUN
23 Deputy Attorney General
24 Attorneys for Complainant

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14 **Permit No. PHY 47547**

ACCUSATION

15 **ASHRAF ADEL ZAKY**
16 **19551 Shadow Ridge Way**
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17 **Pharmacist License No. RPH 48538**

18 **LILIT POGOSYAN**
19 **501 W. Glenoaks Blvd., #551**
Glendale, CA 91202
Pharmacist License No. RPH 53686

20 Respondents.

21
22 Complainant alleges:

23 **PARTIES**

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

26 ///

27 ///

28

1 Dana Drugs

2 2. On or about June 23, 2006, the Board of Pharmacy (Board) issued Permit Number
3 PHY 47547 to Dana Drugs ("Respondent Dana Drugs"), with Ashraf Adel Zaky ("Respondent
4 Zaky") as Pharmacist-in-Charge and President (collectively "Respondents"). The Permit was in
5 full force and effect at all times relevant to the charges brought herein and will expire on June 1,
6 2013, unless renewed.

7 Ashraf Adel Zaky

8 3. On or about March 7, 1996, the Board issued Original Pharmacist License Number
9 RPH 48538 to Respondent Zaky. The License was in full force and effect at all times relevant to
10 the charges brought herein and will expire on February 29, 2014, unless renewed.

11 Lilit Pogosyan

12 4. On or about August 22, 2002, the Board issued Original Pharmacist License Number
13 RPH 53686 to Lilit Pogosyan ("Respondent Pogosyan"). The License was in full force and effect
14 at all times relevant to the charges brought herein and will expire on November 30, 2013, unless
15 renewed.

16 **JURISDICTION**

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

20 **STATUTORY PROVISIONS**

21 6. Section 118, subdivision (b), of the Code provides that the
22 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of
23 jurisdiction to proceed with a disciplinary action during the period within which the license may
24 be renewed, restored, reissued or reinstated.

25 7. Section 4300 of the Code states:

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

27 ///

28 ///

1 8. Section 4301 of the Code states:

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

5

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

10 9. Section 4059 of the Code states:

11 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
12 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
13 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
14 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
15 3640.7."

16 10. Section 4081 of the Code states:

17 "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs
18 or dangerous devices shall be at all times during business hours open to inspection by authorized
19 officers of the law, and shall be preserved for at least three years from the date of making. A
20 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary
21 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,
22 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,
23 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and
24 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and
25 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

26 "(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal
27 drug retailer shall be jointly responsible, with the pharmacist-in-charge or representative-in-
28 charge, for maintaining the records and inventory described in this section."

1 REGULATORY PROVISIONS

2 11. California Code of Regulations, title 16, section 1714, states:

3

4 "(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and
5 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.
6 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice
7 of pharmacy.

8

9 "(d) Each pharmacist while on duty shall be responsible for the security of the prescription
10 department, including provisions for effective control against theft or diversion of dangerous
11 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy
12 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist."

13 12. California Code of Regulations, title 16, section 1718, states:

14 "'Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions
15 Code shall be considered to include complete accountability for all dangerous drugs handled by
16 every licensee enumerated in Sections 4081 and 4332.

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

19 COST RECOVERY PROVISION

20 13. Section 125.3 of the Code states, in pertinent part, that the Board may request the
21 administrative law judge to direct a licentiate found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 DRUG DEFINITION

25 14. Hydrocodone is a Schedule III controlled substance pursuant to Health and Safety
26 Code section 11056(e)(4) and a dangerous drug pursuant to Business and Professions Code
27 section 4022.

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SUMMARY OF FACTS

15. On or about December 27, 2010, the Board received a copy of *Report of Theft or Loss of Controlled Substances* DEA Form 106 (Report) from Respondents. The Report documented a loss of 49877 dosage units of controlled substance (hydrocodone/apap 10 mg/325mg) from Respondent Dana Drugs. Respondents discovered the loss on or about December 20, 2010 due to suspected employee pilferage.

16. Subsequent audit of Respondents' acquisition and disposition records of hydrocodone/apap for the time period 06/19/08 to 11/23/10 reveals the following:

Drug	Count @ Last Inventory 6/19/08 (Close of Business)	Purchases 6/20/08 to 11/22/10	Transfers In (Brent-Air Pharmacy)	Dispensed Rxs 6/20/08 to 11/22/10	Expected On Hand Inventory	Actual Inventory 11/23/10 (Open of Business)	Variance
HC/APAP 10/325	130	183800	36000	165041	54889	380	-54509
HC/APAP 10/660	130	800	0	578	352	85	-267
HC/APAP 10/500	180	900	0	960	120	140	20
HC/APAP 10/650	40	700	0	0	740	0	-740
HC/APAP 5/500	600	41600	0	41278	922	725	-197
HC/APAP 5/325	30	1800	0	1676	154	176	22
HC/APAP 7.5/325	230	2100	0	2293	37	60	23
HC/APAP 7.5/500	200	600	0	842	-42	120	162
HC/APAP 7.5/750	700	45000	0	43705	1995	435	-1560

17. Subsequent audit of hydrocodone/apap 10mg/325mg transferred from Brent-Air Pharmacy¹ to Dana Drugs from the time period 1/2010 to 10/2010, focusing at the acquisitions and dispositions made at Dana Drugs, reveals the following:

¹ Respondent Zaky is also Pharmacist-in-Charge/Owner of Brent-Air Pharmacy, Permit Number PHY 48616.

Date	Purchases	Transfers In	Dispenses	Variance	Variance w/o Transfer
January	5000	0	4490	+510	
February	12500	0	12685	-185	
March	12000	0	10280	+1720	
April	8000	0	8385	-385	
May	9000	0	10718	-1718	
June	8000	9500	3485	-14015	+4515
July	9000	9500	3890	-14610	+5110
August	2500	11000	3480	-10020	-980
September	6000	6000	3905	-8095	+2095
October	5000	0	5452	-452	

18. Subsequent audit of the prescription profile of four patients with respect to suspected unauthorized furnishings reveals the following:

Pt	RX #	Date Dispensed	Drug	QTY	Comments
WA	6302991	7/15/10	HC/APAP 10/325	180	Falsified RX (refill authorization) via suspected direct entry into pharmacy system (no RX document)
		7/22/10	HC/APAP 10/325	180	
		8/14/10	HC/APAP 10/325	180	
		8/25/10	HC/APAP 10/325	180	
		9/20/10	HC/APAP 10/325	180	
		10/8/10	HC/APAP 10/325	180	
		11/18/10	HC/APAP 10/325	180	
MM	6306762	10/6/10	HC/APAP 7.5/750	30	Unauthorized refill
JK	6303428	7/23/10	HC/APAP 10/325	120	Forged RX (telephone order); RPH Pogosyan
MJ	6303762	7/30/10	HC/APAP 10/325	120	Forged RX (telephone order); RPH Pogosyan
		10/13/10	HC/APAP 10/325	120	

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RESPONDENT DANA DRUGS
FIRST CAUSE FOR DISCIPLINE
(Unsecured Pharmacy)

19. Respondent Dana Drugs is subject to disciplinary action under Code section 4301, subdivision (o) for violating California Code of Regulations, title 16, section 1714, subdivision (b), in that it failed to maintain effective control of the security of the prescription department against theft or loss of controlled substances/dangerous drugs. A Board audit of a 30-month period from 6/19/08 to 11/23/10 reveals that Respondent Dana Drugs could not account for the loss of approximately 54509 dosage units of hydrocodone/apap 10mg/325mg, 267 dosage units of hydrocodone/apap 10mg/660mg, 740 dosage units of hydrocodone/apap 10mg/650mg, 197 dosage units of hydrocodone/apap 5mg/500mg, and 1560 dosage units of hydrocodone/apap 7.5mg/750mg. Complainant refers to and incorporates all the allegations contained in paragraphs 15 – 18 above, as though set forth fully.

SECOND CAUSE FOR DISCIPLINE
(Failure to Maintain Current Inventory)

20. Respondent Dana Drugs is subject to disciplinary action under Code sections 4081, subdivision (a), and 4301, subdivision (o) for violating California Code of Regulations, title 16, section 1718, in that it failed to maintain complete accountability of all controlled substances/dangerous drugs. A Board audit of a 30-month period from 6/19/08 to 11/23/10 reveals that Respondent Dana Drugs could not account for the loss of approximately 54509 dosage units of hydrocodone/apap 10mg/325mg, 267 dosage units of hydrocodone/apap 10mg/660mg, 740 dosage units of hydrocodone/apap 10mg/650mg, 197 dosage units of hydrocodone/apap 5mg/500mg, and 1560 dosage units of hydrocodone/apap 7.5mg/750mg. There was an overage of 20 dosage units of hydrocodone/apap 10mg/500mg, 22 dosage units of hydrocodone/apap 5mg/325mg, 23 dosage units of hydrocodone/apap 7.5mg/325mg and 162 dosage units of hydrocodone/apap 7.5mg/500mg. Complainant refers to and incorporates all the allegations contained in paragraphs 15 – 18 above, as though set forth fully.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unauthorized Prescription)**

3 21. Respondent Dana Drugs is subject to disciplinary action under Code section 4301,
4 subdivision (o) for violating Code section 4059, subdivision (a), in that it furnished controlled
5 substances/dangerous drugs without valid prescriptions. A Board audit of a 30-month period
6 from 6/19/08 to 11/23/10 reveals that Respondent Dana Drugs could not account for the loss of
7 approximately 54509 dosage units of hydrocodone/apap 10mg/325mg, 267 dosage units of
8 hydrocodone/apap 10mg/660mg, 740 dosage units of hydrocodone/apap 10mg/650mg, 197
9 dosage units of hydrocodone/apap 5mg/500mg, and 1560 dosage units of hydrocodone/apap
10 7.5mg/750mg. Further, 1260 dosage units of hydrocodone/apap 10mg/325mg for Patient WA
11 (RX 6302991), 120 dosage units of hydrocodone/apap 10mg/325mg for Patient JK (RX
12 6303428), and 240 dosage units of hydrocodone/apap 10mg/325mg for Patient MJ (RX 6303762)
13 were furnished based on forged or falsified prescription orders. Complainant refers to and
14 incorporates all the allegations contained in paragraphs 15 – 18 above, as though set forth fully.

15 **RESPONDENT ASHRAF ADEL ZAKY**

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Unsecured Pharmacy)**

18 22. Respondent Zaky is subject to disciplinary action under Code section 4301,
19 subdivision (o) for violating California Code of Regulations, title 16, section 1714, subdivision
20 (d), in that he failed to maintain effective control of the security of the prescription department
21 against theft or loss of controlled substances/dangerous drugs. A Board audit of a 30-month
22 period from 6/19/08 to 11/23/10 reveals that Respondent Zaky could not account for the loss of
23 approximately 54509 dosage units of hydrocodone/apap 10mg/325mg, 267 dosage units of
24 hydrocodone/apap 10mg/660mg, 740 dosage units of hydrocodone/apap 10mg/650mg, 197
25 dosage units of hydrocodone/apap 5mg/500mg, and 1560 dosage units of hydrocodone/apap
26 7.5mg/750mg. Complainant refers to and incorporates all the allegations contained in paragraphs
27 15 – 18 above, as though set forth fully.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Current Inventory)**

3 23. Respondent Zaky is subject to disciplinary action under Code sections 4081,
4 subdivision (a), and 4301, subdivision (o) for violating California Code of Regulations, title 16,
5 section 1718, in that he failed to maintain complete accountability of all controlled
6 substances/dangerous drugs. A Board audit of a 30-month period from 6/19/08 to 11/23/10
7 reveals that Respondent Dana Drugs could not account for the loss of approximately 54509
8 dosage units of hydrocodone/apap 10mg/325mg, 267 dosage units of hydrocodone/apap
9 10mg/660mg, 740 dosage units of hydrocodone/apap 10mg/650mg, 197 dosage units of
10 hydrocodone/apap 5mg/500mg, and 1560 dosage units of hydrocodone/apap 7.5mg/750mg.
11 There was an overage of 20 dosage units of hydrocodone/apap 10mg/500mg, 22 dosage units of
12 hydrocodone/apap 5mg/325mg, 23 dosage units of hydrocodone/apap 7.5mg/325mg and 162
13 dosage units of hydrocodone/apap 7.5mg/500mg. Complainant refers to and incorporates all the
14 allegations contained in paragraphs 15 – 18 above, as though set forth fully.

15 **RESPONDENT LILIT POGOSYAN**

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Unsecured Pharmacy)**

18 24. Respondent Pogosyan is subject to disciplinary action under Code section 4301,
19 subdivision (o) for violating California Code of Regulations, title 16, section 1714, subdivision
20 (d), in that she failed to maintain effective control of the security of the prescription department
21 against theft or loss of controlled substances/dangerous drugs. A Board audit of a 30-month
22 period from 6/19/08 to 11/23/10 reveals that Respondent Zaky could not account for the loss of
23 approximately 54509 dosage units of hydrocodone/apap 10mg/325mg, 267 dosage units of
24 hydrocodone/apap 10mg/660mg, 740 dosage units of hydrocodone/apap 10mg/650mg, 197
25 dosage units of hydrocodone/apap 5mg/500mg, and 1560 dosage units of hydrocodone/apap
26 7.5mg/750mg. Complainant refers to and incorporates all the allegations contained in paragraphs
27 15 – 18 above, as though set forth fully.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unauthorized Prescription)**

3 25. Respondent Pogosyan is subject to disciplinary action under Code section 4301,
4 subdivision (o) for violating Code section 4059, subdivision (a), in that she furnished controlled
5 substances/dangerous drugs without valid prescriptions. A Board audit of a 30-month period
6 from 6/19/08 to 11/23/10 reveals that she could not account for the loss of approximately 54509
7 dosage units of hydrocodone/apap 10mg/325mg, 267 dosage units of hydrocodone/apap
8 10mg/660mg, 740 dosage units of hydrocodone/apap 10mg/650mg, 197 dosage units of
9 hydrocodone/apap 5mg/500mg, and 1560 dosage units of hydrocodone/apap 7.5mg/750mg.
10 Further, 120 dosage units of hydrocodone/apap 10mg/325mg for Patient JK (RX 6303428), and
11 240 dosage units of hydrocodone/apap 10mg/325mg for Patient MJ (RX 6303762) were furnished
12 based on forged or falsified prescription orders. Complainant refers to and incorporates all the
13 allegations contained in paragraphs 15 – 18 above, as though set forth fully.

14 **PRIOR CITATIONS**

15 26. To determine the degree of discipline, if any, Complainant further alleges the
16 following:

17 a. On or about December 9, 2009, the Board issued Citation Number CI 2007 35848 to
18 Respondent Dana Drugs for violations of California Code of Regulations, title 16, sections 1716
19 [variation from prescription] and 1707.3 [duty to review drug therapy].

20 b. On or about July 29, 2011, the Board issued Citation Number CI 2010 47755 to
21 Respondent Zaky for violation of California Code of Regulations, title 16, section 1714,
22 subdivision (d) [operational standards and security; pharmacist responsible for pharmacy
23 security].

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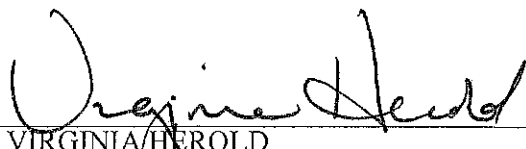
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PRAYER

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 Permit Number PHY 47547, issued to Dana Drugs, with Ashraf Adel Zaky as Pharmacist-in-Charge and President;
2. Revoking or suspending Original Pharmacist License Number RPH 48538 issued to Ashraf Adel Zaky;
3. Revoking or suspending Original Pharmacist License Number RPH 53686 issued to Lilit Pogosyan;
4. Ordering Dana Drugs, Ashraf Adel Zaky and Lilit Pogosyan, jointly and severally, to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
5. Taking such other and further action as deemed necessary and proper.

DATED: 3/26/13 

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

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