

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

In the Matter of the Accusation Against:

**DEMI RX PHARMACY
LEONARD FRAYMAN
Permit No. PHY 45319**

Respondent.

Case No. 4191

OAH No. 2012100826

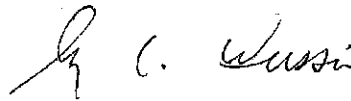
DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on March 10, 2014.

It is so ORDERED on February 7, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

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PROPOSED DECISION

This matter came on regularly for hearing on September 30, 2013, at Los Angeles, California, before David B. Rosenman, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California. Complainant Virginia Herold was represented by Deputy Attorney General Antonio Lopez, Jr. Respondent Leonard Frayman, doing business as Demi Rx Pharmacy, was present and was represented by Michael Goch, Attorney at Law.

At the hearing, the Accusation was amended, at page 6, line 21, to change a date from March 28, 2011, to March 28, 2001. Oral and documentary evidence was presented and factual stipulations were made on the record. The record remained open for receipt of briefs, as follows: Complainant's Memorandum . . . [and] Closing Argument, received October 18, 2013, and marked for identification as Exhibit 9; and Respondent's Post-Hearing Brief, received October 30, 2013, and marked for identification as Exhibit CC. Complainant was given until November 11, 2013, to submit any reply. Due to the Veterans Day Holiday, this deadline was extended to November 12, 2013. Complainant did not file any reply.

The matter was submitted for decision on November 12, 2013. Due to pending surgery, the ALJ requested the parties to agree to an extension for submission of this Proposed Decision. On November 5, 2013, Mr. Goch submitted a letter, marked for identification as Exhibit 10, memorializing the agreement of the parties to an extension of 60 days beyond the 30-day deadline for submission of this Proposed Decision.

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FACTUAL FINDINGS

The Administrative Law Judge finds the following facts:

1. The Accusation was issued by Complainant Virginia Herold in her official capacity as Executive Officer of the Board of Pharmacy (Board). Respondent filed a request for a hearing.

2. On May 30, 2001, the Board issued Permit Number PHY 45319 to Leonard Frayman, doing business as Demi Rx Pharmacy (Respondent). The Permit was in full force and effect at all relevant times and will expire on May 1, 2014.¹

3. At the hearing, Respondent stipulated to the truth of the matters alleged in paragraphs 11 through 15, and the first sentence of paragraph 16, of the Accusation, as amended. The allegations to which the stipulation applies are hereby set forth as factual findings:

“11. On or about March 28, 2001, Respondent Frayman submitted a Pharmacy Permit Application [“Application”] with the Board of Pharmacy, naming ‘Demi Rx Pharmacy’ as the intended name of the business to be licensed.

“12. On page 2 of the Application, Respondent responded ‘No’ to the following question:

‘Have you as an owner, shareholder, officer, member, director or partner . . . been involved with a pharmacy . . . whose license has been disciplined . . . by a state board of pharmacy or federal regulatory agency? Also describe if any of the above actions have involved your spouse.’

“13. On page 2 of the Application, Respondent responded ‘No’ to the following question:

‘Are you currently, or have you previously been, associated in business with any person, partnership, corporation, or other entity, or shared a financial or community property interest with any person whose pharmacy permit . . . was denied, suspended, revoked, or placed on probation or other disciplinary action taken, by this or any other governmental authority . . . ?’

¹ Although the License History Certification (Exh. 2) indicates the permit expired on May 1, 2012, the Board’s website indicates it will expire May 14, 2014. Under Government Code section 11515, official notice may be taken of information within the Board’s special field.

"14. At the time respondent submitted the Application to the Board, he was married to Zina Frayman, a previous pharmacy owner whose pharmacies were revoked by the Board for Medi-Cal and insurance fraud.

"15. On the Application, Respondent listed his home address as 717 High Lane, Redondo Beach, California.

"16. Shortly before Respondent submitted the Application with the Redondo Beach address, his wife, Zina Frayman, issued a Quit Claim Deed (2001-0164583) transferring ownership of this home to be the sole property of Respondent."

4. In summary, the Board contended: that Respondent was deceitful in not writing Zina's name where the Application asked for his spouse; that the process of using a quit claim deed was an attempt to keep Zina's name from appearing in public records showing her as associated with Respondent; and that Respondent did so because he did not want the revocation of Zina's pharmacy licenses to prevent him from obtaining his license. The Board alleges, among other things, fraud, deceit, false representation, and intent to subvert the Board from fully vetting Respondent's qualifications to be licensed. As discussed in more detail below, the Board did not submit sufficient convincing evidence to prove its claims.

5. Although Respondent stipulated that the quit claim deed transferred Zina Frayman's (Zina) ownership of the home to Respondent, the evidence established that Zina had no ownership of the home at that time. Rather, Zina and Respondent were in the process of buying the home. Respondent and Zina were concerned that Zina's poor credit history, including a bankruptcy and a default on a home mortgage, would have a negative effect on any joint application for a loan to purchase the property. Therefore, the loan was applied for in the name of Respondent and his son, Igor Frayman (Igor). The loan was granted and Respondent and Igor became the owners of record when the property was purchased. The documents related to the purchase that were recorded in the County Recorder's office included the quit claim deed.

6. Respondent presented the expert testimony of William Jacobs to the effect that, at the time of these transactions, it was not uncommon to use a quit claim deed for the purpose of avoiding the negative credit history of a spouse in the purchase of residential property. Mr. Jacobs' testimony was not controverted and was convincing.

7. Respondent and Zina have been married twice. They were first married in September 1971, were subsequently separated in 1989, and a Judgment of Dissolution was entered on April 9, 1992. After their separation, Respondent moved to San Francisco and Zina remained in the Los Angeles area. The separation and divorce were contentious and there was little communication between the two, occasionally with their son Igor as the intermediary. In fact, there were restraining orders to both parties to not contact or telephone each other and to not disturb each other's peace. (Exh. H.) After his parents separated, Igor

lived with Zina until 1994, when he left to attend graduate school. He moved back in with Zina after returning to Los Angeles in 1997.

8. Respondent returned to the Los Angeles area in April 2000. He and Zina remarried in November 2000. The documents related to the loans, purchase and quitclaim deed for the purchase of the home at 717 High Lane, Redondo Beach, California, were all signed in January 2001 and were recorded in the Office of the County Recorder on January 31, 2001.

9. During their first marriage, Zina had not owned or operated any pharmacies. After the divorce, Zina owned three pharmacies that were licensed by the Board. Crystal Pharmacy (permit PHY 40980) discontinued business on April 5, 1996. The only other evidence of its operations is a Fictitious Business Name Statement recorded on June 15, 1995. Lanark Pharmacy (permit PHY 41260) was revoked by the Board on December 4, 1999, after the Board filed an accusation alleging insurance and Medi-Cal fraud. There was no evidence of its dates of operation. Shell Pharmacy (permit PHY 41869) was revoked by the Board on March 28, 2000, after the Board filed an accusation alleging insurance and Medi-Cal fraud. A Fictitious Business Name Statement was recorded on November 21, 1996. There was no other evidence of its dates of operation.

10. Respondent testified that he was unaware of Zina's operation of the three pharmacies when he submitted the Application in March 2001. This evidence was not controverted and is convincing. Respondent was divorced from Zina during the period she operated these three pharmacies and he did not have reason to know of their operations. Respondent testified convincingly that: he learned how to operate a pharmacy from Howard Ottamura, from whom he purchased Demi Rx Pharmacy; he did not learn anything about the pharmacy business from Zina; and Zina has no role in the management or operations of Demi Rx Pharmacy.

11. Respondent testified convincingly that he first learned of Zina's operation of a pharmacy during their separation when Zina told him she was using the proceeds of the sale of a pharmacy to travel to Europe with their minor daughter. The timing of when Respondent first learned this information was not established, other than it was after Respondent filed his Application with the Board. Respondent only knew of the one pharmacy, and that Zina had sold it. Respondent also testified convincingly that he first learned of the Board's disciplinary actions against Zina when, about five or six years ago, he Googled her name and saw that information. Respondent characterized Zina as not being forthcoming with negative information about herself, and cited as an example that he only learned of her prior bankruptcy and mortgage default after their joint loan application to purchase their home had been denied for those reasons.

12. In the Application, Respondent indicated that he was to be the sole owner of Demi Rx Pharmacy. Immediately below that information, in a box asking for the name and birthdate of a spouse, Respondent wrote "N/A," even though he had remarried Zina by that time. In filling out this portion, Respondent had no intent to conceal from the Board that he

was married to Zina. He indicated he was to be the sole owner, and he did not anticipate that Zina would have any involvement in the management or operations of the pharmacy. He did not know at that time that Zina had owned pharmacies or that any pharmacy permits issued to her by the Board had been revoked.

13. Complainant submitted evidence of his costs incurred for the investigation and enforcement of this case. Respondent objected to such evidence on various grounds, including hearsay, failure to provide notice of the intent to use the declaration under Government Code section 11514, and lack of foundation. The parties were asked to brief the issues. For the reasons noted below, it is not necessary to rule upon the objections or make further findings concerning the claim for costs.

14. Respondent raised claims of laches and submitted evidence in support of the claim. For the reasons set forth below, it is not necessary to make further findings on this claim.

LEGAL CONCLUSIONS AND DISCUSSION

Based upon the foregoing factual findings, the Administrative Law Judges makes the following legal conclusions:

1. The parties were asked to brief the question of the appropriate standard of proof. Complainant convincingly contends that the pharmacy permit issued to Respondent is more in the nature of a facility permit or license and does not involve the type of training, education and other indicia of a "professional" license often cited as justification for the use of the higher standard of clear and convincing evidence to a reasonable certainty. Therefore, the standard of proof is preponderance of the evidence. Complainant cites as support Evidence Code section 115, *Imports Performance v. Department of Consumer Affairs* (2011) 201 Cal.App.4th 911, *San Benito Foods v. Veneman* (1996) 50 Cal.App.4th 1889, and *Mann v. Department of Motor Vehicle* (1999) 76 Cal.App.3d 853. Respondent concedes that the proper standard of proof is preponderance of the evidence.

2. "Preponderance of the evidence means evidence that has more convincing force than that opposed to it.' (Citations omitted) . . . The sole focus of the legal definition of 'preponderance' in the phrase 'preponderance of the evidence' is on the *quality* of the evidence. The *quantity* of evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314, 324-325.) (Italics in original.) To meet the burden of proof by a preponderance of the evidence, the party with the burden of proof "must produce substantial evidence, contradicted or uncontradicted, which supports the finding." (*In re Shelley J.* (1998) 68 Cal.App.4th 322, 329.)

3. Under Business and Professions Code section 4300, subdivision (a), the Board may suspend or revoke a license or registration.²

4. Section 4301 states that the Board shall take action against any holder of a license who is guilty of unprofessional conduct, which includes, as relevant to this matter:

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

“(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.”

“(p) Actions or conduct that would have warranted denial of a license.”

“(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board.”³

5. The Board was suspicious of Respondent’s Application when it later learned that his spouse, Zina, had pharmacy permits that were revoked, and this information was not revealed on his Application. Further, the Board’s investigators believed that the manner in which their home was purchased (the quit claim deed, title held by Respondent and Igor, and not by Zina) was an attempt to subvert the Board’s right to investigate Respondent’s Application with access to all relevant information. While there is a level of reason for these suspicions, that level is very low and the evidence did not establish, to a level of a preponderance, any wrongdoing by Respondent or intent to mislead the Board. Respondent established that he was not aware of Zina’s pharmacy activities before their remarriage. The Board did not produce any evidence to the contrary. Under these circumstances, there is insufficient evidence to conclude that Respondent committed acts such as dishonesty, fraud, or deceit, knowingly signed a false document, or attempted to subvert an investigation by the Board.

6. Cause does not exist to suspend or revoke Respondent’s pharmacy permit under sections 4300 and 4301, subdivision (f), for committing acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as set forth in Factual Findings 2 through 12.

² All statutory references are to the Business and Professions Code except where noted.

³ In the Accusation, Complainant quoted the entirety of section 4301 (para. 6) and alleged that Respondent is subject to disciplinary action under section 4301 by making false and fraudulent statements in obtaining his license (para. 10). Section 4301 has 19 subdivisions that set forth different examples of acts deemed to be unprofessional conduct. In response to a question from the ALJ at the hearing, Mr. Lopez indicated that the specific subdivisions of section 4301 at issue in the case are (f), (g), (p) and (q).

7. Cause does not exist to suspend or revoke Respondent's pharmacy permit under sections 4300 and 4301, subdivision (g), for knowingly making or signing the Application for permit that falsely represents the existence or nonexistence of a state of facts, as set forth in Factual Findings 2 through 12.

8. Cause does not exist to suspend or revoke Respondent's pharmacy permit under sections 4300 and 4301, subdivision (p), for actions or conduct that would have warranted denial of a license, as set forth in Factual Findings 2 through 12.

9. Cause does not exist to suspend or revoke Respondent's pharmacy permit under sections 4300 and 4301, subdivision (q), for engaging in any conduct that subverts or attempts to subvert an investigation of the board, as set forth in Factual Findings 2 through 12.


10. Under section 125.3, the Board may request the administrative law judge to direct a licentiate found to have committed violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. As Complainant did not prove that Respondent committed any of the alleged violations of the licensing act, no costs can be awarded.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The Accusation against Leonard Frayman, doing business as Demi Rx Pharmacy, is dismissed.

DATED: November 15, 2013.



DAVID B. ROSENMAN
Administrative Law Judge
Office of Administrative Hearings

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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. 4191

11 **DEMI RX PHARMACY; LEONARD**
12 **FRAYMAN**
2052 N. Lake Ave
13 Altadena, CA 91001
14 **Permit No. PHY 45319**

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about May 30, 2001, the Board issued Permit Number PHY 45319 to Leonard
22 Frayman, dba Demi Rx Pharmacy (Respondent). The Permit was in full force and effect at all
23 times relevant to the charges brought herein and will expire on May 1, 2012, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board, under the authority of the following
26 laws. All section references are to the Business and Professions Code unless otherwise indicated.

27 4. Section 4300 of the Code states:

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

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

4 (1) Suspending judgment.

5 (2) Placing him or her upon probation.

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

7 (4) Revoking his or her license.

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

10 (c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
11 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
12 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
13 may issue the license subject to any terms or conditions not contrary to public policy, including,
14 but not limited to, the following:

15 (1) Medical or psychiatric evaluation.

16 (2) Continuing medical or psychiatric treatment.

17 (3) Restriction of type or circumstances of practice.

18 (4) Continuing participation in a board-approved rehabilitation program.

19 (5) Abstention from the use of alcohol or drugs.

20 (6) Random fluid testing for alcohol or drugs.

21 (7) Compliance with laws and regulations governing the practice of pharmacy.

22 (d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
23 certificate of licensure for any violation of the terms and conditions of probation. Upon
24 satisfactory completion of probation, the board shall convert the probationary certificate to a
25 regular certificate, free of conditions.

26 (e) The proceedings under this article shall be conducted in accordance with Chapter 5
27 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
28 shall have all the powers granted therein. The action shall be final, except that the propriety of

1 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
2 Civil Procedure."

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

7 6. Section 4301 of the Code states:

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

11 "(a) Gross immorality.

12 "(b) Incompetence.

13 "(c) Gross negligence.

14 "(d) The clearly excessive furnishing of controlled substances in violation of subdivision (a)
15 of Section 11153 of the Health and Safety Code.

16 "(e) The clearly excessive furnishing of controlled substances in violation of subdivision (a)
17 of Section 11153.5 of the Health and Safety Code. Factors to be considered in determining
18 whether the furnishing of controlled substances is clearly excessive shall include, but not be
19 limited to, the amount of controlled substances furnished, the previous ordering pattern of the
20 customer (including size and frequency of orders), the type and size of the customer, and where
21 and to whom the customer distributes its product.

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

25 "(g) Knowingly making or signing any certificate or other document that falsely represents
26 the existence or nonexistence of a state of facts.

27 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the
3 practice authorized by the license.

4 "(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving away, or
5 administering or offering to sell, furnish, give away, or administer any controlled substance to an
6 addict.

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

9 "(k) The conviction of more than one misdemeanor or any felony involving the use,
10 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
11 combination of those substances.

12 "(l) The conviction of a crime substantially related to the qualifications, functions, and
13 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
14 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
15 substances or of a violation of the statutes of this state regulating controlled substances or
16 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
17 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
18 The board may inquire into the circumstances surrounding the commission of the crime, in order
19 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
20 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
21 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
22 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
23 of this provision. The board may take action when the time for appeal has elapsed, or the
24 judgment of conviction has been affirmed on appeal or when an order granting probation is made
25 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
26 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
27 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
28 indictment.

1 "(m) The cash compromise of a charge of violation of Chapter 13 (commencing with
2 Section 801) of Title 21 of the United States Code regulating controlled substances or of Chapter
3 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code
4 relating to the Medi-Cal program. The record of the compromise is conclusive evidence of
5 unprofessional conduct.

6 "(n) The revocation, suspension, or other discipline by another state of a license to practice
7 pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.

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

12 "(p) Actions or conduct that would have warranted denial of a license.

13 "(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the
14 board.

15 "(r) The selling, trading, transferring, or furnishing of drugs obtained pursuant to Section
16 256b of Title 42 of the United States Code to any person a licensee knows or reasonably should
17 have known, not to be a patient of a covered entity, as defined in paragraph (4) of subsection (a)
18 of Section 256b of Title 42 of the United States Code.

19 "(s) The clearly excessive furnishing of dangerous drugs by a wholesaler to a pharmacy that
20 primarily or solely dispenses prescription drugs to patients of long-term care facilities. Factors to
21 be considered in determining whether the furnishing of dangerous drugs is clearly excessive shall
22 include, but not be limited to, the amount of dangerous drugs furnished to a pharmacy that
23 primarily or solely dispenses prescription drugs to patients of long-term care facilities, the
24 previous ordering pattern of the pharmacy, and the general patient population to whom the
25 pharmacy distributes the dangerous drugs. That a wholesaler has established, and employs, a
26 tracking system that complies with the requirements of subdivision (b) of Section 4164 shall be
27 considered in determining whether there has been a violation of this subdivision. This provision
28 shall not be interpreted to require a wholesaler to obtain personal medical information or be

1 authorized to permit a wholesaler to have access to personal medical information except as
2 otherwise authorized by Section 56 and following of the Civil Code. "

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

7 8. Section 125.3 of the Code provides, in pertinent part, that the
8 Board/Registrar/Director may request the administrative law judge to direct a licentiate found to
9 have committed a violation or violations of the licensing act to pay a sum not to exceed the
10 reasonable costs of the investigation and enforcement of the case.

11 9. Section 22 of the Code states:

12 "(a) 'Board' as used in any provisions of this Code, refers to the board in which the
13 administration of the provision is vested, and unless otherwise expressly provided, shall include
14 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and
15 'agency.'

16 CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct)

18 10. Respondent is subject to disciplinary action under section 4301, in that he engaged in
19 unprofessional conduct by making false and fraudulent statements to the Board in obtaining
20 licensure. The circumstances are as follows:

21 11. On or about March 28, 2011, Respondent Frayman submitted a Pharmacy Permit
22 Application with the Board of Pharmacy, naming "Demi Rx Pharmacy" as the intended name of
23 the business to be licensed.

24 12. On page 2 of the Application, Respondent responded "No" to the following question:

25 "Have you as an owner, shareholder, officer, member, director or partner . . . been involved
26 with a pharmacy . . . whose license has been disciplined . . . by a state board of pharmacy or
27 federal regulatory agency? Also describe if any of the above actions have involved your spouse .
28 . . ."

1 13. On page 2 of the Application, Respondent responded "No" to the following question:
2 "Are you currently, or have you previously been, associated in business with any person,
3 partnership, corporation, or other entity, or shared a financial or community property interest with
4 any person whose pharmacy permit . . . was denied, suspended, revoked, or placed on probation
5 or other disciplinary action taken, by this or any other governmental authority . . .?"

6 14. At the time respondent submitted the Application to the Board, he was married to
7 Zina Frayman, a previous pharmacy owner whose pharmacies were revoked by the Board for
8 Medi-Cal and insurance fraud.

9 15. On the Application, Respondent listed his home address as 717 High Lane, Redondo
10 Beach, California.

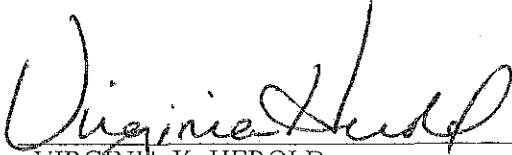
11 16. Shortly before Respondent submitted the Application with the Redondo Beach address,
12 his wife, Zina Frayman, issued a Quit Claim Deed (2001-0164583) transferring ownership of this
13 home to be the sole property of Respondent. This action was an attempt to conceal the fact that
14 Respondent's wife had previous disciplinary actions with the Board and to subvert any Board
15 investigation.

16 PRAYER

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

- 19 1. Revoking or suspending Permit Number PHY 45319, issued to Demi Rx Pharmacy;
20 2. Ordering Leonard Frayman to pay the Board the reasonable costs of the investigation
21 and enforcement of this case, pursuant to Business and Professions Code section 125.3;
22 3. Taking such other and further action as deemed necessary and proper.

23
24 DATED: 5/30/12


25 VIRGINIA K. HEROLD
26 Executive Officer
27 Board of Pharmacy
28 State of California
Complainant

LA2011505272