

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

In the Matter of the Accusation Against:

**SILVA ANDONIAN
11974 Vara Place
Granada Hills, CA 91344**

Pharmacist License No. RPH 40981

Respondent.

Case No. 4975

OAH No. 2014070399

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 August 21, 2015.

It is so ORDERED on July 22, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

AMARYLIS GUTIERREZ
Board President

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Supervising Deputy Attorney General
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4975

12 **SILVA ANDONIAN**
11974 Vara Place
13 Granada Hills, CA 91344

OAH No. 2014070399

14 **Pharmacist License No. RPH 40981**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.
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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

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

25 2. Respondent Silva Andonian (Respondent) is represented in this proceeding by
26 attorney Armond Marcarian, Esq., whose address is: 31111 West Agoura Road, Suite 260
27 Westlake Village, California 91361.
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1 3. On or about August 14, 1987, the Board issued Pharmacist License No. RPH 4098
2 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the
3 charges brought in Accusation No. 4975 and will expire on October 31, 2016, unless renewed.

4 JURISDICTION

5 4. Accusation No. 4975 was filed before the Board, Department of Consumer Affairs,
6 and is currently pending against Respondent. The Accusation and all other statutorily required
7 documents were properly served on Respondent on May 29, 2014. Respondent timely filed her
8 Notice of Defense contesting the Accusation.

9 5. A copy of Accusation No. 4975 is attached as exhibit A and incorporated herein by
10 reference.

11 ADVISEMENT AND WAIVERS

12 6. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 4975. Respondent has also carefully read, fully
14 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
15 Order.

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

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

25 CULPABILITY

26 9. Respondent understands and agrees that the charges and allegations in Accusation
27 No. 4975, if proven at a hearing, constitute cause for imposing discipline upon her Pharmacist
28 License.

1 10. For the purpose of resolving the Accusation without the expense and uncertainty of
2 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
3 basis for the charges in the Accusation, and that Respondent hereby give up her right to contest
4 those charges.

5 11. Respondent agrees that her Pharmacist License is subject to discipline and she agrees
6 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

7 CONTINGENCY

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

17 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
18 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
19 signatures thereto, shall have the same force and effect as the originals.

20 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
21 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
22 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
23 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
24 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
25 writing executed by an authorized representative of each of the parties.

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

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3. 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.

4. 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 her probation. Failure to cooperate shall be considered a violation of probation.

5. Continuing Education

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

6. Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 4975 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 4975, and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions of the decision in case number 4975 in advance

1 of the respondent commencing work at each licensed entity. A record of this notification must be
2 provided to the board upon request.

3 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
4 (15) days of respondent undertaking any new employment by or through a pharmacy employment
5 service, respondent shall cause her direct supervisor with the pharmacy employment service to
6 report to the board in writing acknowledging that she has read the decision in case number 4975
7 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
8 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

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

22 **8. Reimbursement of Board Costs**

23 As a condition precedent to successful completion of probation, respondent shall pay to the
24 board its costs of investigation and prosecution in the amount of \$7,264.50. Respondent shall
25 make said payments according to a payment plan approved by the Board.

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

1 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
2 reimburse the board its costs of investigation and prosecution.

3 **9. Probation Monitoring Costs**

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

8 **10. Status of License**

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

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

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

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

24 Upon acceptance of the surrender, respondent shall relinquish her pocket and wall license to
25 the board within ten (10) days of notification by the board that the surrender is accepted.
26 Respondent may not reapply for any license from the board for three (3) years from the effective
27 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
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1 of the date the application for that license is submitted to the board, including any outstanding
2 costs.

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

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

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

12 **13. Tolling of Probation**

13 Except during periods of suspension, respondent shall, at all times while on probation, be
14 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
15 month during which this minimum is not met shall toll the period of probation, i.e., the period of
16 probation shall be extended by one month for each month during which this minimum is not met.
17 During any such period of tolling of probation, respondent must nonetheless comply with all
18 terms and conditions of probation.

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

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

27 "Cessation of practice" means any calendar month during which respondent is not
28 practicing as a pharmacist for at least 40 hours, as defined by Business and Professions

1 Code section 4000 et seq . "Resumption of practice" means any calendar month during
2 which respondent is practicing as a pharmacist for at least 40 hours as a pharmacist as
3 defined by Business and Professions Code section 4000 et seq.

4 **14. Violation of Probation**

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

10 If respondent violates probation in any respect, the board, after giving respondent notice
11 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
12 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
13 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
14 a petition to revoke probation or an accusation is filed against respondent during probation, the
15 board shall have continuing jurisdiction and the period of probation shall be automatically
16 extended until the petition to revoke probation or accusation is heard and decided.

17 **15. Completion of Probation**

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

20 **16. Community Services Program**

21 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
22 board or its designee, for prior approval, a community service program in which respondent shall
23 provide free health-care related services on a regular basis to a community or charitable facility or
24 agency for at least 36 hours per year for the first two years of probation. Within thirty (30) days
25 of board approval thereof, respondent shall submit documentation to the board demonstrating
26 commencement of the community service program. A record of this notification must be
27 provided to the board upon request. Respondent shall report on progress with the community
28 service program in the quarterly reports. Failure to timely submit, commence, or comply with the

1 program shall be considered a violation of probation.

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

3 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
4 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
5 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
6 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
7 days following the effective date of this decision and shall immediately thereafter provide written
8 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
9 documentation thereof shall be considered a violation of probation.

10 **18. Ethics Course**

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

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

17 ACCEPTANCE

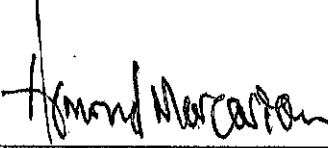
18 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
19 discussed it with my attorney, Armond Marcarian, Esq.. I understand the stipulation and the
20 effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and
21 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
22 Decision and Order of the Board of Pharmacy.

23
24 DATED: 3/30/15 *Silva Andonian*
25 SILVA ANDONIAN
Respondent

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1 I have read and fully discussed with Respondent Silva Andonian the terms and conditions
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
3 its form and content.

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5 DATED: March 30, 2015


Armond Marcarian, Esq.
Attorney for Respondent

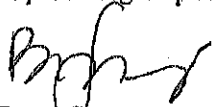
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8 ENDORSEMENT

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

11 Dated: 4/2/15

Respectfully submitted,

12 KAMALA D. HARRIS
13 Attorney General of California
14 LINDA L. SUN
Supervising Deputy Attorney General


15 BORA SONG
16 Deputy Attorney General
17 Attorneys for Complainant

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19
20 LA2013510694
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Exhibit A

Accusation No. 4975

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 BORA SONG
Deputy Attorney General
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Attorneys for Complainant
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BOARD OF PHARMACY
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10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4975

12 **SILVA ANDONIAN**
11974 Vara Pl.
13 Granada Hills, CA 91344

ACCUSATION

14 **Pharmacist License No. RPH 40981**

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 14, 1987, the Board of Pharmacy issued Pharmacist License
23 Number RPH 40981 to SILVA ANDONIAN (Respondent). The Pharmacist License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on October 31,
25 2014, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws.

4 4. Business and Professions Code section 118, subdivision (b),¹ provides that the
5 suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of
6 jurisdiction to proceed with a disciplinary action during the period within which the license may
7 be renewed, restored, reissued or reinstated.

8 5. Section 4300 that every license issued by the Board is subject to discipline, including
9 suspension or revocation.

10 STATUTORY PROVISIONS

11 6. Section 4301 states, in pertinent part:

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

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

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

21 (o) Violating or attempting to violate, directly or indirectly, or assisting in
22 or abetting the violation of or conspiring to violate any provision or term of this
23 chapter or of the applicable federal and state laws and regulations governing
24 pharmacy, including regulations established by the board or by any other state or
25 federal regulatory agency.

26 7. Section 4059 states, in pertinent part, that a person may not furnish any dangerous
27 drug except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
28 naturopathic doctor pursuant to Section 3640.7.

¹ All further statutory references are to the Business and Professions Code unless otherwise indicated.

DANGEROUS DRUG

8. Section 4022 states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

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

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

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

9. Butalbital/acetaminophen/caffeine (BUT-APAP-CAF) is a dangerous drug as defined by Business & Professions Code section 4022.

COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

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

11. Respondent is subject to disciplinary action under Section 4301, subdivision (f), in that while employed as a pharmacist with Walgreens, Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. The circumstances are as follows:

12. A Walgreens Loss Prevention Officer noticed excessive negative adjustments on BUT-APAP-CAF 50-325-40 TAB from Walgreens store number 5566. The loss prevention department discovered that Respondent, who was employed with Walgreens as a "floater" Pharmacist, was prescribed the medication. It was also discovered that Respondent was working at store number 5566 on the date the pills were missing. Respondent "floated" between store number 5566, and store number 7950. As such, the loss prevention department obtained a two year adjustment report of BUT-APAP-CAF for store numbers 5566 and 7950. The report for

1 store number 5566 showed -4410 in adjustments at an approximate cost of \$176.67. The report
2 for store number 7950 showed -2250 in adjustments from store number 7950 at an approximate
3 cost of \$72.26. Further investigation by the loss prevention department revealed that respondent
4 was the person on shift during the losses. Respondent subsequently confessed to Walgreens both
5 orally and in writing, to diverting BUT-APAP-CAF, and Respondent was fired.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct: Unlawful Possession of a Dangerous Drug)**

8 13. Respondent is subject to disciplinary action under Section 4301, subdivision (j), in
9 conjunction with Section 4059, in that Respondent violated the statutes regulating dangerous
10 drugs when she furnished BUT-APAP-CAF to herself without a valid prescription. Complainant
11 refers to, and by this reference incorporates, the allegations set forth above in paragraph 12, as
12 though set forth fully herein. The circumstances are described in more particularity in paragraph
13 15, above.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct: Violation of Pharmacy Laws)**

16 14. Respondent is subject to disciplinary action under Section 4301, subdivision (o), in
17 that Respondent committed acts in violation of the state laws and regulations governing pharmacy
18 including regulations established by the Board or by any other state or federal regulatory agency.
19 Complainant refers to, and by this reference incorporates, the allegations set forth above in
20 paragraphs 11 through 13, inclusive, as though set forth fully herein.

21 **PRAYER**

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

24 1. Revoking or suspending Pharmacist License Number RPH 40981, issued to SILVA
25 ANDONIAN;

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- 2. Ordering SILVA ANDONIAN 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;
- 3. Taking such other and further action as deemed necessary and proper.

DATED: 5/17/14 Virginia Herold

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

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