

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

In the Matter of the Accusation Against:

**DANVILLE PHARMACY, INC., dba
DANVILLE SAN RAMON PHARMACY,
ALIREZA HADJIGHAFOURI
905 San Ramon Valley Blvd. #106
Danville, CA 94526**

Pharmacy Permit No. PHY 50868

and

**ALIREZA HADJIGHAFOURI
2880 Comistas Drive
Walnut Creek, CA 94598**

Pharmacist License No. RPH 42144

Respondents.

Case No. 5940

OAH No. 2017010729

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on August 10, 2017.

It is so ORDERED on July 11, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 XAVIER BECERRA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
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Attorneys for Complainant

8
9 **BEFORE THE**
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10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

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14 **ALIREZA HADJIGHAFOURI, OWNER**
905 San Ramon Valley Blvd. # 106
Danville, CA 94526

15 Pharmacy Permit No. PHY 50868

16 and

17 **ALIREZA HADJIGHAFOURI**
18 2880 Comistas Dr.
Walnut Creek, CA 94598

19 Pharmacist License No. RPH 42144

20 Respondents.
21

Case No. 5940

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**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

22
23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
24 entitled proceedings that the following matters are true:

25 PARTIES

26 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
27 (Board). She brought this action solely in her official capacity and is represented in this matter by
28 Xavier Becerra, Attorney General of the State of California, by Nicholas Tsukamaki, Deputy

1 Attorney General.

2 2. Respondent Danville Pharmacy, Inc. dba Danville San Ramon Pharmacy, Alireza
3 Hadjighafouri, owner (Respondent Danville) and Respondent Alireza Hadjighafouri (Respondent
4 Hadjighafouri) are represented in this proceeding by attorney Paul Chan, whose address is: 2311
5 Capitol Avenue, Sacramento, CA 95816.

6 3. On or about March 21, 2012, the Board issued Pharmacy Permit Number PHY 50868
7 to Respondent Danville. The Pharmacy Permit was in full force and effect at all times relevant to
8 the charges brought herein and will expire on March 1, 2018, unless renewed.

9 4. On or about August 23, 1988, the Board issued Original Pharmacist License Number
10 RPH 42144 to Respondent Hadjighafouri. The Pharmacist License was in full force and effect at
11 all times relevant to the charges brought herein and will expire on July 31, 2018, unless renewed.

12 JURISDICTION

13 5. Accusation No. 5940 was filed before the Board and is currently pending against
14 Respondents. The Accusation and all other statutorily required documents were properly served
15 on Respondents on December 16, 2016. Respondents timely filed their Notice of Defense
16 contesting the Accusation.

17 6. A copy of Accusation No. 5940 is attached as exhibit A and incorporated herein by
18 reference.

19 ADVISEMENT AND WAIVERS

20 7. Respondents have carefully read, fully discussed with counsel, and understand the
21 charges and allegations in Accusation No. 5940. Respondents have also carefully read, fully
22 discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary
23 Order.

24 8. Respondents are fully aware of their legal rights in this matter, including the right to a
25 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
26 the witnesses against them; the right to present evidence and to testify on their own behalf; the
27 right to the issuance of subpoenas to compel the attendance of witnesses and the production of
28 documents; the right to reconsideration and court review of an adverse decision; and all other

1 rights accorded by the California Administrative Procedure Act and other applicable laws.

2 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
3 every right set forth above.

4 CULPABILITY

5 10. Respondents admit the truth of each and every charge and allegation in Accusation
6 No. 5940.

7 11. Respondents agree that their Pharmacy Permit and Pharmacist License are subject to
8 discipline and they agree to be bound by the Board's probationary terms as set forth in the
9 Disciplinary Order below.

10 CONTINGENCY

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

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

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

1 writing executed by an authorized representative of each of the parties.

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

5 **DISCIPLINARY ORDER**

6 IT IS HEREBY ORDERED that Pharmacy Permit Number PHY 50868 issued to Danville
7 Pharmacy, Inc. dba Danville San Ramon Pharmacy, Alireza Hadjighafouri, owner (Respondent
8 Danville), and Original Pharmacist License Number RPH 42144 issued to Alireza Hadjighafouri
9 (Respondent Hadjighafouri) are revoked. However, the revocation is stayed and Respondents are
10 placed on probation for four (4) years on the following terms and conditions.

11 **1. Obey All Laws**

12 Respondents shall obey all state and federal laws and regulations. Respondents shall report
13 any of the following occurrences to the board, in writing, within seventy-two (72) hours of such
14 occurrence:

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

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

26 **2. Report to the Board**

27 Respondents shall report to the board quarterly, on a schedule as directed by the board or its
28 designee. The report shall be made either in person or in writing, as directed. Among other

1 requirements, Respondents shall state in each report under penalty of perjury whether there has
2 been compliance with all the terms and conditions of probation. Failure to submit timely reports
3 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
4 in submission of reports as directed may be added to the total period of probation. Moreover, if
5 the final probation report is not made as directed, probation shall be automatically extended until
6 such time as the final report is made and accepted by the board.

7 **3. Interview with the Board**

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

13 **4. Cooperate with Board Staff**

14 Respondents shall cooperate with the board's inspection program and with the board's
15 monitoring and investigation of Respondents' compliance with the terms and conditions of their
16 probation. Failure to cooperate shall be considered a violation of probation.

17 **5. Continuing Education**

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

20 **6. Notice to Employers**

21 During the period of probation, Respondents shall notify all present and prospective
22 employers of the decision in case number 5940 and the terms, conditions, and restrictions
23 imposed on Respondents by the decision, as follows:

24 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
25 Respondents undertaking any new employment, Respondents shall cause their direct supervisor,
26 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondents'
27 tenure of employment) and owner to report to the board in writing acknowledging that the listed
28 individual(s) has/have read the decision in case number 5940, and terms and conditions imposed

1 thereby. It shall be Respondents' responsibility to ensure that their employer(s) and/or
2 supervisor(s) submit timely acknowledgment(s) to the board.

3 If Respondents work for or are employed by or through a pharmacy employment service,
4 Respondents must notify their direct supervisor, pharmacist-in-charge, and owner at every entity
5 licensed by the board of the terms and conditions of the decision in case number 5940 in advance
6 of Respondents commencing work at each licensed entity. A record of this notification must be
7 provided to the board upon request.

8 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
9 (15) days of Respondents undertaking any new employment by or through a pharmacy
10 employment service, Respondents shall cause their direct supervisor with the pharmacy
11 employment service to report to the board in writing acknowledging that they have read the
12 decision in case number 5940 and the terms and conditions imposed thereby. It shall be
13 Respondents' responsibility to ensure that their employer(s) and/or supervisor(s) submit timely
14 acknowledgment(s) to the board.

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

18 "Employment" within the meaning of this provision shall include any full-time, part-time,
19 temporary, relief or pharmacy management service as a pharmacist or any position for which a
20 pharmacist license is a requirement or criterion for employment, whether Respondents are
21 employees, independent contractors or volunteers.

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

24 During the period of probation, Respondent Hadjighafouri shall not supervise any intern
25 pharmacist, be the pharmacist-in-charge or designated representative-in-charge of any entity
26 licensed by the board with the exception of Danville Pharmacy, Inc. dba Danville San Ramon
27 Pharmacy, or serve as a consultant unless otherwise specified in this order. Assumption of any
28 such unauthorized supervision responsibilities shall be considered a violation of probation.

1 **8. Reimbursement of Board Costs**

2 As a condition precedent to successful completion of probation, Respondents shall, jointly
3 and severally, pay to the board its costs of investigation and prosecution in the amount of
4 \$10,019.00. Respondents shall pay that amount to the Board in a single lump sum within thirty
5 (30) days of the effective date of the Decision. Failure to pay costs by the deadline as directed
6 shall be considered a violation of probation.

7 The filing of bankruptcy by Respondents shall not relieve Respondents of their
8 responsibility to reimburse the board its costs of investigation and prosecution.

9 **9. Probation Monitoring Costs**

10 Respondents shall pay any costs associated with probation monitoring as determined by the
11 board each and every year of probation. Such costs shall be payable to the board on a schedule as
12 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
13 be considered a violation of probation.

14 **10. Status of License**

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

18 If Respondents' licenses expire or are cancelled by operation of law or otherwise at any
19 time during the period of probation, including any extensions thereof due to tolling or otherwise,
20 upon renewal or reapplication Respondents' licenses shall be subject to all terms and conditions
21 of this probation not previously satisfied.

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

23 Following the effective date of this decision, should Respondents cease practice due to
24 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
25 Respondents may tender their licenses to the board for surrender. The board or its designee shall
26 have the discretion whether to grant the request for surrender or take any other action it deems
27 appropriate and reasonable. Upon formal acceptance of the surrender of the licenses,
28 Respondents will no longer be subject to the terms and conditions of probation. This surrender

1 constitutes a record of discipline and shall become a part of Respondents' license history with the
2 board.

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

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

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

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

18 **13. Tolling of Probation**

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

25 Should Respondent Hadjighafouri, regardless of residency, for any reason (including
26 vacation) cease practicing as a pharmacist for a minimum of forty (40) hours per calendar month
27 in California, Respondent Hadjighafouri must notify the board in writing within ten (10) days of
28 the cessation of practice, and must further notify the board in writing within ten (10) days of the

1 resumption of practice. Any failure to provide such notification(s) shall be considered a violation
2 of probation.

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

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

11 14. Violation of Probation

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

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

24 15. Completion of Probation

25 Upon written notice by the board or its designee indicating successful completion of
26 probation, Respondents' licenses will be fully restored.

27 16. Community Services Program

28 Within sixty (60) days of the effective date of this decision, Respondent Danville shall

1 submit to the board or its designee, for prior approval, a community service program in which
2 Respondent Danville shall provide free health-care related services on a regular basis to a
3 community or charitable facility or agency for at least seventy-five (75) hours as follows: fifty
4 (50) hours of prescription drug abuse and twenty-five (25) hours of brown bag. Within thirty (30)
5 days of board approval thereof, Respondent Danville shall submit documentation to the board
6 demonstrating commencement of the community service program. A record of this notification
7 must be provided to the board upon request. Respondent Danville shall report on progress with
8 the community service program in the quarterly reports. Failure to timely submit, commence, or
9 comply with the program shall be considered a violation of probation.

10 **17. Remedial Education**

11 Within thirty (30) days of the effective date of this decision, Respondent Hadjighafouri
12 shall submit to the board or its designee, for prior approval, an appropriate program of remedial
13 education related to prescription drug abuse and pharmacy law. The program of remedial
14 education shall consist of at least thirty-four (34) hours. Ten (10) hours must be completed within
15 the first year of probation; eight (8) hours must be completed during the subsequent years of
16 probation. These hours must be completed at Respondent Hadjighafouri's own expense. All
17 remedial education shall be in addition to, and shall not be credited toward, continuing education
18 (CE) courses used for license renewal purposes.

19 Failure to timely submit or complete the approved remedial education shall be considered a
20 violation of probation. The period of probation will be automatically extended until such
21 remedial education is successfully completed and written proof, in a form acceptable to the board,
22 is provided to the board or its designee.

23 Following the completion of each course, the board or its designee may require Respondent
24 Hadjighafouri, at his own expense, to take an approved examination to test Respondent
25 Hadjighafouri's knowledge of the course. If Respondent Hadjighafouri does not achieve a
26 passing score on the examination, this failure shall be considered a violation of probation. Any
27 such examination failure shall require Respondent Hadjighafouri to take another course approved
28 by the board in the same subject area.

1 **18. No Ownership of Licensed Premises**

2 Respondent Hadjighafouri shall not acquire any new ownership, legal or beneficial interest
3 nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of
4 any additional business, firm, partnership, or corporation licensed by the board. If Respondent
5 Hadjighafouri currently owns or has any legal or beneficial interest in, or serves as a manager,
6 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
7 partnership, or corporation currently or hereinafter licensed by the board, Respondent
8 Hadjighafouri may continue to serve in such capacity or hold that interest, but only to the extent
9 of that position or interest as of the effective date of this decision. A violation of this restriction
10 shall be considered a violation of probation.

11 **19. Consultant for Owner or Pharmacist-In-Charge**

12 During the period of probation, Respondent Hadjighafouri shall not supervise any intern
13 pharmacist or serve as a consultant to any entity licensed by the board. Respondent
14 Hadjighafouri may be a pharmacist-in-charge at Danville Pharmacy, Inc. dba Danville San
15 Ramon Pharmacy. However, if during the period of probation Respondent Hadjighafouri serves
16 as a pharmacist-in-charge, Respondent Hadjighafouri shall retain an independent consultant at his
17 own expense who shall be responsible for reviewing pharmacy operations on a monthly basis for
18 compliance by Respondent Hadjighafouri with state and federal laws and regulations governing
19 the practice of pharmacy and for compliance by Respondent Hadjighafouri with the obligations of
20 a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not on probation
21 with the board and whose name shall be submitted to the board or its designee, for prior approval,
22 within thirty (30) days of the effective date of this decision. Respondent Hadjighafouri shall not
23 be a pharmacist-in-charge at more than one pharmacy or at any pharmacy of which he is not the
24 sole owner. Failure to timely retain, seek approval of, or ensure timely reporting by the
25 consultant shall be considered a violation of probation. During the period of probation, the Board
26 or its designee retains the discretion to reduce the frequency of the pharmacist consultant's review
27 of Respondent Danville's operations.

28 ///

20. Ethics Course

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

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Paul Chan. I understand the stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 6/5/17 
ALIREZA HADJIGHAFOURI for DANVILLE
PHARMACY, INC. dba DANVILLE SAN RAMON
PHARMACY
Respondent


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

DATED: 6/5/17 
ALIREZA HADJIGHAFOURI
Respondent

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I have read and fully discussed with Respondents Danville Pharmacy, Inc. dba Danville San Ramon Pharmacy and Alireza Hadjighafouri the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 6/5/17




PAUL CHAN
Attorney for Respondents

ENDORSEMENT

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

Dated: June 5, 2017

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General


NICHOLAS TSUKAMAKI
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5940

1 KAMALA D. HARRIS
Attorney General of California
2 JOSHUA A. ROOM
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3 NICHOLAS TSUKAMAKI
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

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14 **DANVILLE SAN RAMON PHARMACY,**
15 **ALIREZA HADJIGHAFOURI, OWNER**
16 **905 San Ramon Valley Blvd. # 106**
17 **Danville, CA 94526**

A C C U S A T I O N

18 **Pharmacy Permit No. PHY 50868**

19 **and**

20 **ALIREZA HADJIGHAFOURI**
21 **2880 Comistas Dr.**
22 **Walnut Creek, CA 94598**

23 **Pharmacist License No. RPH 42144**

24 Respondents.

25 Complainant alleges:

26 **PARTIES**

- 27 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
28 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.
- 29 2. On or about March 21, 2012, the Board issued Pharmacy Permit Number PHY 50868
30 to Danville Pharmacy, Inc. dba Danville San Ramon Pharmacy, Alireza Hadjighafouri, owner
31 (Respondent Danville). The Pharmacy Permit was in full force and effect at all times relevant to

1 the charges brought herein and will expire on March 1, 2017, unless renewed.

2 3. On or about August 23, 1988, the Board issued Original Pharmacist License Number
3 RPH 42144 to Alireza Hadjighafouri (Respondent Hadjighafouri). The Pharmacist License was
4 in full force and effect at all times relevant to the charges brought herein and will expire on July
5 31, 2018, unless renewed.

6 JURISDICTION

7 4. This Accusation is brought before the Board under the authority of the following
8 laws. All section references are to the Business and Professions Code (Code) unless otherwise
9 indicated.

10 5. Section 4011 of the Code provides that the Board shall administer and enforce both
11 the Pharmacy Law (Bus. & Prof. Code, § 4000 et seq.) and the Uniform Controlled Substances
12 Act (Health & Safety Code, § 11000 et seq.).

13 6. Section 4300, subdivision (a) of the Code provides that every license issued by the
14 Board may be suspended or revoked.

15 7. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or
16 suspension of a Board-issued license, the placement of a license on a retired status, or the
17 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to
18 commence or proceed with any investigation of, or action or disciplinary proceeding against, the
19 licensee or to render a decision suspending or revoking the license.

20 STATUTORY PROVISIONS

21 8. Section 4301 of the Code provides, in relevant part:

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

25 ...

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

28 ...

1 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
2 violation of or conspiring to violate any provision or term of this chapter or of the applicable
3 federal and state laws and regulations governing pharmacy, including regulations established by
4 the board or by any other state or federal regulatory agency.

5 ...”

6 9. Section 4021 of the Code provides that a “controlled substance” means any substance
7 listed in Schedules I through V contained in Health and Safety Code section 11053 et seq.

8 10. Section 4113, subdivision (c) of the Code states: “The pharmacist-in-charge shall be
9 responsible for a pharmacy’s compliance with all state and federal laws and regulations pertaining
10 to the practice of pharmacy.”

11 11. Section 4306.5 of the Code provides, in pertinent part:

12 “Unprofessional conduct for a pharmacist may include any of the following:

13 ...

14 “(b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement
15 his or her best professional judgment or corresponding responsibility with regard to the
16 dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with
17 regard to the provision of services.

18 ...”

19 12. Section 4307, subdivision (a) of the Code states:

20 “Any person who has been denied a license or whose license has been revoked or is under
21 suspension, or who has failed to renew his or her license while it was under suspension, or who
22 has been a manager, administrator, owner member, officer, director, associate, or partner of any
23 partnership, corporation, firm, or association whose application for a license has been denied or
24 revoked, is under suspension or has been placed on probation, and while acting as the manager,
25 administrator, owner, member, officer, director, associate, or partner had knowledge or
26 knowingly participated in any conduct for which the license was denied, revoked, suspended, or
27 placed on probation, shall be prohibited from serving as a manager, administrator, owner,
28 member, officer, director, associate, or partner of a licensee as follows:

1 “(1) Where a probationary license is issued or where an existing license is placed on
2 probation, this prohibition shall remain in effect for a period not to exceed five years.

3 “(2) Where the license is denied or revoked, the prohibition shall continue until
4 the license is issued or reinstated.”

5 13. Section 11153, subdivision (a) of the Health and Safety Code states:

6 “A prescription for a controlled substance shall only be issued for a legitimate medical ____
7 purpose by an individual practitioner acting in the usual course of his or her professional practice.
8 The responsibility for the proper prescribing and dispensing of controlled substances is upon the
9 prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the
10 prescription. Except as authorized by this division, the following are not legal prescriptions:
11 (1) an order purporting to be a prescription which is issued not in the usual course of professional
12 treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of
13 controlled substances, which is issued not in the course of professional treatment or as part of an
14 authorized narcotic treatment program, for the purpose of providing the user with controlled
15 substances, sufficient to keep him or her comfortable by maintaining customary use.”

16 **REGULATORY PROVISIONS**

17 14. California Code of Regulations, title 16, section 1761 states:

18 “(a) No pharmacist shall compound or dispense any prescription which contains any
19 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any
20 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
21 validate the prescription.

22 “(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense
23 a controlled substance prescription where the pharmacist knows or has objective reason to know
24 that said prescription was not issued for a legitimate medical purpose.”

25 **COSTS**

26 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licentiate found to have committed a violation or violations of
28 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and

1 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
2 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
3 included in a stipulated settlement.

4 **FACTUAL BACKGROUND**

5 16. Between approximately September 2012 and July 2015, Respondents filled sixteen
6 (16) zaleplon 10 mg prescriptions for K.F.¹, a patient of prescriber J.T. Zaleplon is a Schedule IV
7 controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(31)
8 and a dangerous drug as designated by Business and Professions Code section 4022. There were
9 warning signs or "red flags" indicating that those prescriptions may not have been issued for a
10 legitimate medical purpose. Those red flags include the following:

- 11 a. K.F. paid cash for all of the zaleplon prescriptions.
- 12 b. K.F. requested eleven (11) early fills of her zaleplon prescriptions.
- 13 c. K.F. lived a long distance from the prescriber's practice, which was a long distance
14 from Respondents' pharmacy.

15 17. Between approximately July 2012 and April 2013, Respondents filled numerous
16 prescriptions for patients of prescriber T.B., including prescriptions for oxycodone,
17 hydrocodone/acetaminophen, methadone, and alprazolam, among others. Oxycodone is a
18 Schedule II controlled substance as designated by Health and Safety Code section 11055,
19 subdivision (b)(1)(M) and a dangerous drug as designated by Business and Professions Code
20 section 4022. Hydrocodone/acetaminophen is a Schedule III controlled substance as designated
21 by Health and Safety Code section 11056, subdivision (e)(5) and a dangerous drug as designated
22 by Business and Professions Code section 4022. Methadone is a Schedule II controlled substance
23 as designated by Health and Safety Code section 11055, subdivision (c)(14) and a dangerous drug
24 as designated by Business and Professions Code section 4022. Alprazolam is a Schedule IV
25 controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(1)
26 and a dangerous drug as designated by Business and Professions Code section 4022. There were

27 ¹ Initials are used herein for privacy purposes. The names of individuals identified with
28 initials will be disclosed pursuant to a proper discovery request.

1 warning signs or "red flags" indicating that those prescriptions may not have been issued for a
2 legitimate medical purpose. Those red flags include the following:

3 a. The majority (98%) of the prescriptions were paid for with cash.

4 b. Approximately 96% of the prescriptions written by T.B. and dispensed by
5 Respondent Danville were for controlled substances. This proportion of dispensed controlled
6 substance prescriptions is not consistent with Respondent Danville's pattern of dispensing.

7 c. Nearly all patients prescribed oxycodone presented to Respondent Danville with
8 prescriptions for the highest tablet strength of oxycodone with no evidence of upward titration
9 from a lower dose. Most patients received doses of two (2) tablets of the highest tablet strength.

10 d. Two of T.B.'s patients were prescribed the highest strength tablets of alprazolam, and
11 there was no evidence of upward titration from a lower dose.

12 e. All of the patients lived long distances from T.B.'s practice and most of the patients
13 lived long distances from Respondents' pharmacy. Also, T.B.'s practice is a long distance from
14 Respondents' pharmacy.

15 f. Patients presented with prescriptions for controlled substances on the same day and
16 around the same time (in some cases within minutes of one another), and those prescriptions had
17 the same serial number and were either close in batch number or had sequential batch numbers.

18 g. In some cases patients who received prescriptions from T.B. on different days had
19 those prescriptions filled at Respondents' pharmacy on the same day and around the same time.

20 h. Respondents filled several prescriptions weeks or months after they were written.

21 i. T.B.'s prescribing trends for the patients were not consistent with T.B.'s primary area
22 of practice.

23 CAUSE FOR DISCIPLINE

24 (Failure to Exercise Corresponding Responsibility When Dispensing Controlled Substances)

25 18. Respondents are subject to disciplinary action under sections 4301, subdivisions (j)
26 and/or (o), 4113, subdivision (c), and/or 4306.5, subdivision (b) of the Code, Health and Safety
27 Code section 11153, subdivision (a), and California Code of Regulations, title 16, section 1761,
28 subdivisions (a) and/or (b), in that Respondent Hadjighafouri failed to exercise his corresponding

1 responsibility when dispensing controlled substances and dangerous drugs. The circumstances of
2 this conduct are set forth above in paragraphs 15 and 16.

3 **OTHER MATTERS**

4 34. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacy Permit
5 Number PHY 50868 issued to Respondent Danville, Respondent Hadjighafouri shall be
6 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
7 or partner of a licensee for five years if Pharmacy Permit Number PHY 50868 is placed on
8 probation or until Pharmacy Permit Number PHY 50868 is reinstated if it is revoked.

9 35. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacy Permit
10 Number PHY 50868 issued to Respondent Danville while Respondent Hadjighafouri has been an
11 officer and owner and had knowledge of or knowingly participated in any conduct for which the
12 licensee was disciplined, Respondent Hadjighafouri shall be prohibited from serving as a
13 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
14 five years if Pharmacy Permit Number PHY 50868 is placed on probation or until Pharmacy
15 Permit Number PHY 50868 is reinstated if it is revoked.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacy Permit Number PHY 50868 issued to Danville
20 Pharmacy, Inc. dba Danville San Ramon Pharmacy, Alireza Hadjighafouri, owner (Respondent
21 Danville);

22 2. Revoking or suspending Original Pharmacist License Number RPH 42144 issued to
23 Alireza Hadjighafouri (Respondent Hadjighafouri);

24 3. Prohibiting Respondent Hadjighafouri from serving as a manager, administrator,
25 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
26 Permit Number PHY 50868 is placed on probation or until Pharmacy Permit Number PHY 50868
27 is reinstated if Pharmacy Permit Number 50868 issued to Respondent Danville is revoked;

28 ///

1 4. Ordering Respondent Danville and Respondent Hadjighafouri to pay the Board of
2 Pharmacy the reasonable costs of the investigation and enforcement of this case pursuant to
3 Business and Professions Code section 125.3; and

4 5. Taking such other and further action as deemed necessary and proper.

5
6 DATED:

12/2/16



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

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