

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

In the Matter of the Accusation Against:

**HI DESERT COMPOUNDING PHARMACY
CORP. DBA PRESCRIPTION SHOPPE,
LOUIS EDWARD LONGORIA AND
CATHERINE BERG, OWNERS**

15247 Eleventh Street
Victorville, CA 92395
LOUIS EDWARD LONGORIA, Pharmacist-in-
Charge

Original Permit No. PHY 48593

LOUIS EDWARD LONGORIA
17695 Merrill Ave
Fontana, CA 92335

Original Pharmacist License No. RPH 24668

Respondents.

Case No. 6183

OAH No. 2017110864

DECISION AND ORDER

The attached Stipulated Surrender 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 September 5, 2018.

It is so ORDERED on August 6, 2018.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Victor Law, R.Ph.
Board President

1 XAVIER BECERRA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 BRIAN LEE
Deputy Attorney General
4 State Bar No. 253592
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6621
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10 In the Matter of the Accusation Against:

Case No. 6183

11 **HI DESERT COMPOUNDING**
12 **PHARMACY CORP. DBA**
13 **PRESCRIPTION SHOPPE, LOUIS**
EDWARD LONGORIA AND
14 **CATHERINE BERG, OWNERS**

OAH No. 2017110864

STIPULATED SURRENDER OF
LICENSE AND ORDER

15 15247 Eleventh Street
Victorville, CA 92395
16 LOUIS EDWARD LONGORIA, Pharmacist-
In-Charge

17 **Original Permit No. PHY 48593**

18 **and**

19 **LOUIS EDWARD LONGORIA**
17695 Merrill Ave.
20 Fontana, CA 92335

21 **Original Pharmacist License No. RPH 24668**

22
23 Respondents.
24
25
26
27
28

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

3 **PARTIES**

4 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy,
5 Department of Consumer Affairs. She brought this action solely in her official capacity and is
6 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
7 Brian Lee, Deputy Attorney General.

8 2. Hi Desert Compounding Pharmacy Corp. doing business as Prescription Shoppe and
9 Louis Edward Longoria (Respondents) are represented in this proceeding by attorney Peter
10 Gregorovic from the Law Office of Tony J. Park, Inc., whose address is: 49 Discovery, Suite 240,
11 Irvine, CA 92618-6713.

12 3. On or about July 19, 2007, the Board of Pharmacy issued Original Permit Number
13 PHY 48593 to Respondent Hi Desert Compounding Pharmacy Corp. doing business as
14 Prescription Shoppe with Louis Edward Longoria as Pharmacist-in-Charge, President, and the
15 owner of sixty percent (60%) of the outstanding shares and Catherine Berg, as Vice-President,
16 Secretary, Treasurer/Chief Financial Officer, and the owner of forty percent (40%) of the
17 outstanding shares ("Respondent Hi Desert"). The Original Permit was in full force and effect at
18 all times relevant to the charges brought in Accusation No. 6183 and will expire on July 1, 2018,
19 unless renewed.

20 4. On or about August 12, 1966, the Board of Pharmacy issued Original Pharmacist
21 License Number RPH 24668 to Respondent Louis Edward Longoria ("Respondent Longoria").
22 The Original Pharmacist License was in full force and effect at all times relevant to the charges
23 brought in Accusation No. 6183 and will expire on September 30, 2019, unless renewed.

24 **JURISDICTION**

25 5. Accusation No. 6183 was filed before the (Board), and is currently pending against
26 Respondents. The Accusation and all other statutorily required documents were properly served
27 on Respondents on September 14, 2017. Respondents timely filed their Notice of Defense

28 ///

1 contesting the Accusation. A copy of Accusation No. 6183 is attached as Exhibit A and
2 incorporated by reference.

3 ADVISEMENT AND WAIVERS

4 6. Respondents have carefully read, fully discussed with counsel, and understand the
5 charges and allegations in Accusation No. 6183. Respondents have also carefully read, fully
6 discussed with counsel, and understand the effects of this Stipulated Surrender of License and
7 Order.

8 7. Respondents are fully aware of their legal rights in this matter, including the right to a
9 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
10 the witnesses against them; the right to present evidence and to testify on their own behalf; the
11 right to the issuance of subpoenas to compel the attendance of witnesses and the production of
12 documents; the right to reconsideration and court review of an adverse decision; and all other
13 rights accorded by the California Administrative Procedure Act and other applicable laws.

14 8. Respondents voluntarily, knowingly, and intelligently waive and give up each and
15 every right set forth above.

16 CULPABILITY

17 9. Respondents admit the truth of each and every charge and allegation in Accusation
18 No. 6183, and agree that cause exists for discipline. Accordingly, Respondent Hi Desert hereby
19 surrenders Pharmacy Permit No. PHY 48593 for the Board's formal acceptance. Likewise,
20 Respondent Longoria hereby surrenders his Original Pharmacist License No. RPH 24668 for the
21 Board's formal acceptance.

22 10. Respondents understand that by signing this stipulation they enable the Board to issue
23 an order accepting the surrender of the Respondent Hi Desert's Pharmacy Permit and Respondent
24 Longoria's Pharmacist License without further process.

25 CONTINGENCY

26 11. This stipulation shall be subject to approval by the Board. Respondent understands
27 and agrees that counsel for Complainant and the staff of the Board may communicate directly
28 with the Board regarding this stipulation and surrender, without notice to or participation by

1 Respondents or their counsel. By signing the stipulation, Respondents understand and agree that
2 they may not withdraw their agreement or seek to rescind the stipulation prior to the time the
3 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
4 Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for
5 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
6 not be disqualified from further action by having considered this matter.

7 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
8 copies of this Stipulated Surrender of License and Order, including Portable Document Format
9 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

10 13. This Stipulated Surrender of License and Order is intended by the parties to be an
11 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
12 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
13 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
14 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
15 executed by an authorized representative of each of the parties.

16 14. In consideration of the foregoing admissions and stipulations, the parties agree that
17 the Board may, without further notice or formal proceeding, issue and enter the following Order:

18 **ORDER**

19 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 48593, issued to Respondent
20 Hi Desert Compounding Pharmacy Corp. dba Prescription Shoppe and Original Pharmacist
21 License No. RPH 24668, issued to Respondent Louis Edward Longoria, are surrendered and
22 accepted by the Board of Pharmacy.

23 1. The surrender of Respondent Hi Desert's Pharmacy Permit and Respondent
24 Longoria's Pharmacist License and the acceptance of the surrendered licenses by the Board shall
25 constitute the imposition of discipline against Respondents. This stipulation constitutes a record
26 of the discipline and shall become a part of Respondents' license history with the Board of
27 Pharmacy.

28 ///

2. Respondents Hi Desert and Longoria shall lose all rights and privileges as a Pharmacy and Pharmacist, respectively, in California as of the effective date of the Board's Decision and Order.

3. The surrender of Respondent Hi Desert's Pharmacy Permit and Respondent Longoria's Pharmacist License are stayed for ninety (90) days from the date this Stipulated Surrender of License and Order is signed by all Respondents to allow for the sale of the pharmacy. The surrender of said permit and license are not contingent upon the sale of the pharmacy.

4. If the pharmacy is not expected to be sold by effective date of the surrender, Respondents must arrange for the destruction of, transfer to, sale of or storage in a facility licensed by the Board of all controlled substances and dangerous drugs and devices. Respondents shall further provide written proof of such disposition and submit a completed Discontinuance of Business form according to Board guidelines.

5. If the pharmacy is not expected to be sold by effective date of the Board's Decision and Order, Respondents shall also, by that date, arrange for the continuation of care for ongoing patients that specifies the anticipated closing date of the pharmacy and that identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five days of its provision to the pharmacy's ongoing patients, Respondent's shall provide a copy of the written notice to the Board. For the purposes of this provision, "ongoing patients" means those patients for whom the pharmacy has on file a prescription with one or more refills outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60) days.

6. If the pharmacy is not sold by the effective date of the Board's Decision and Order, Respondents shall cause to be delivered to the Board their pocket licenses and, if any were issued, wall certificates on or before the effective date of the Decision and Order.

7. If Respondents ever apply for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondents must comply with all the laws, regulations and procedures for licensure in effect at the time the application or

1 petition is filed, and all of the charges and allegations contained in Accusation No. 6183 shall be
2 deemed to be true, correct and admitted by Respondents when the Board determines whether to
3 grant or deny the application or petition.

4 8. Respondents shall pay the agency, jointly and severally, its costs of investigation and
5 enforcement in the amount of \$11,142.25 prior to issuance of a new or reinstated license.

6 9. If Respondents should ever apply or reapply for a new license or certification, or
7 petition for reinstatement of a license, by any other health care licensing agency in the State of
8 California, all of the charges and allegations contained in Accusation, No. 6183 shall be deemed
9 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
10 other proceeding seeking to deny or restrict licensure.

11 **ACCEPTANCE**

12 I have carefully read the above Stipulated Surrender of License and Order and have fully
13 discussed it with my attorney, Peter Gregorovic. I understand the stipulation and the effect it will
14 have on my Pharmacist License No. RPH 24668. I enter into this Stipulated Surrender of License
15 and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and
16 Order of the Board of Pharmacy.

17
18 DATED: May 3, 2018


LOUIS EDWARD LONGORIA

Respondent

20 I have carefully read the above Stipulated Surrender of License and Order and have fully
21 discussed it with my attorney, Peter Gregorovic. I understand the stipulation and the effect it will
22 have on Pharmacy Permit No. PHY 48593. I enter into this Stipulated Surrender of License and
23 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
24 of the Board of Pharmacy.

25
26 DATED: May 3, 2018


LOUIS EDWARD LONGORIA, OWNER
HI DESERT COMPOUNDING PHARMACY
CORP. DBA PRESCRIPTION SHOPPE

Respondent

1 I have carefully read the above Stipulated Surrender of License and Order and have fully
2 discussed it with my attorney, Peter Gregorovic. I understand the stipulation and the effect it will
3 have on Pharmacy Permit No. PHY 48593. I enter into this Stipulated Surrender of License and
4 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
5 of the Board of Pharmacy.

6
7 DATED: 5-3-18

Catherine Berg
CATHERINE BERG, OWNER
HI DESERT COMPOUNDING PHARMACY
CORP. DBA PRESCRIPTION SHOPPE
Respondent

11 I have read and fully discussed with Respondents the terms and conditions and other
12 matters contained in this Stipulated Surrender of License and Order. I approve its form and
13 content.

14
15 DATED: 5/3/2018

Peter Gregorovic
PETER GREGOROVIC, ESQ.
Attorney for Respondents

16
17
18
19
20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated:

5/7/18

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



BRIAN LEE
Deputy Attorney General
Attorneys for Complainant

LA2017506460
62786575.doc

Exhibit A

Accusation No. 6183

1 XAVIER BECERRA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 BRIAN LEE
Deputy Attorney General
4 State Bar No. 253592
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-3960
6 Facsimile: (213) 897-2804
E-mail: Brian.Lee@doj.ca.gov
7 *Attorneys for Complainant*

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. 6183

12 **HI DESERT COMPOUNDING**
13 **PHARMACY CORP. DBA**
14 **PRESCRIPTION SHOPPE, LOUIS**
EDWARD LONGORIA AND CATHERINE
BERG, OWNERS

A C C U S A T I O N

15 15247 Eleventh Street
Victorville, CA 92395
16 LOUIS EDWARD LONGORIA, Pharmacist-
In-Charge

17 **Original Permit No. PHY 48593**

18 **and**

19 **LOUIS EDWARD LONGORIA**
20 17695 Merrill Ave.
Fontana, CA 92335

21 **Original Pharmacist License No. RPH 24668**

22
23
24 Respondents.

1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about July 19, 2007, the Board of Pharmacy issued Original Permit Number
6 PHY 48593 to Respondent Hi Desert Compounding Pharmacy Corp. doing business as
7 Prescription Shoppe with Louis Edward Longoria as Pharmacist-in-Charge, President, and the
8 owner of sixty percent (60%) of the outstanding shares and Catherine Berg, as Vice-President,
9 Secretary, Treasurer/Chief Financial Officer, and the owner of forty percent (40%) of the
10 outstanding shares ("Respondent Pharmacy"). The Original Permit was in full force and effect at
11 all times relevant to the charges brought herein and will expire on July 1, 2018, unless renewed.

12 3. On or about August 12, 1966, the Board of Pharmacy issued Original Pharmacist
13 License Number RPH 24668 to Respondent Louis Edward Longoria ("Respondent Longoria").
14 The Original Pharmacist License was in full force and effect at all times relevant to the charges
15 brought herein and will expire on September 30, 2017, unless renewed.

16 **JURISDICTION**

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

20 5. Section 4300 of the Code states:

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

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

25 (1) Suspending judgment.

26 (2) Placing him or her upon probation.

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

28 (4) Revoking his or her license.

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

3 ...

4 (e) The proceedings under this article shall be conducted in accordance with Chapter 5
5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
6 shall have all the powers granted therein. The action shall be final, except that the propriety of the
7 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
8 Procedure."

9 6. Section 4300.1 of the Code states:

10 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
11 operation of law or by order or decision of the board or a court of law, the placement of a license
12 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
13 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
14 proceeding against, the licensee or to render a decision suspending or revoking the license."

15 STATUTORY PROVISIONS

16 7. Section 4301 of the Code states:

17 "The board shall take action against any holder of a license who is guilty of unprofessional
18 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is
19 not limited to, any of the following:

20 ...

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

23 ...

24 (l) The conviction of a crime substantially related to the qualifications, functions, and
25 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
26 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
27 substances or of a violation of the statutes of this state regulating controlled substances or
28 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the

1 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
2 The board may inquire into the circumstances surrounding the commission of the crime, in order
3 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or
4 dangerous drugs, to determine if the conviction is of an offense substantially related to the
5 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
6 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
7 of this provision. The board may take action when the time for appeal has elapsed, or the
8 judgment of conviction has been affirmed on appeal or when an order granting probation is made
9 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
10 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
11 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
12 indictment.

13 ...

14 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
15 violation of or conspiring to violate any provision or term of this chapter or of the applicable
16 federal and state laws and regulations governing pharmacy, including regulations established by
17 the board or by any other state or federal regulatory agency.”

18 ...

19 8. Section 4059, subdivision a, of the Code, in pertinent part, states:

20 “A person may not furnish any dangerous drug, except upon a prescription of a physician,
21 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7....”

22 9. Section 4104, subdivision b, of the Code, states:

23 “Every pharmacy shall have written policies and procedures for addressing chemical,
24 mental, or physical impairment, as well as theft, diversion, or self-use of dangerous drugs, among
25 licensed individuals employed by or with the pharmacy.”

26 10. Section 4307 states, in pertinent part:

27 “(a) Any person who has been denied a license or whose license has been revoked or is
28 under suspension, or who has failed to renew his or her license while it was under suspension, or

1 who has been a manager, administrator, owner, member, officer, director, associate, or partner of
2 any partnership, corporation, firm, or association whose application for a license has been denied
3 or revoked, is under suspension or has been placed on probation, and while acting as the manager,
4 administrator, owner, member, officer, director, associate, or partner had knowledge of or
5 knowingly participated in any conduct for which the license was denied, revoked, suspended, or
6 placed on probation, shall be prohibited from serving as a manager, administrator, owner,
7 member, officer, director, associate, or partner of a licensee as follows:

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

10 (2) Where the license is denied or revoked, the prohibition shall continue until the license is
11 issued or reinstated."

12 11. Health and Safety Code section 11379(a) states:

13 "Except as otherwise provided in subdivision (b) and in Article 7 (commencing with
14 Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who
15 transports, imports into this state, sells, furnishes, administers, or gives away, or offers to
16 transport, import into this state, sell, furnish, administer, or give away, or attempts to import into
17 this state or transport any controlled substance which is (1) classified in Schedule III, IV, or V and
18 which is not a narcotic drug, except subdivision (g) of Section 11056, (2) specified in subdivision
19 (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision
20 (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph
21 (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d) or (e), except
22 paragraph (3) of subdivision (e), or specified in subparagraph (A) of paragraph (1) of subdivision
23 (f), of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or
24 veterinarian, licensed to practice in this state, shall be punished by imprisonment pursuant to
25 subdivision (h) of Section 1170 of the Penal Code for a period of two, three, or four years."

26 //

27 //

28 //

REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1707.2(b)(1)(A) states:

“(b)(1) In addition to the obligation to consult set forth in subsection (a), a pharmacist shall provide oral consultation to his or her patient or the patient's agent in any care setting in which the patient or agent is present:

(A) whenever the prescription drug has not previously been dispensed to a patient;

...”

13. California Code of Regulations, title 16, section 1735.3(a) provides in pertinent part, that for each compounded drug product, the pharmacy records shall include: (1) the master formula records; (2) name and date of the compounded drug preparation; (3) the date the drug product was compounded; (4) the identity of the pharmacy personnel who compounded the drug product; (5) the identity of the pharmacist reviewing the final drug product; (6) the quantity of each component used in compounding the drug product; (7) the manufacturer, expiration date and lot number of each component; (8) a pharmacy assigned unique reference or lot number for the compounded drug preparation; (9) the expiration date of the final compounded drug product; (10) the quantity or amount of drug product compounded; and (11) documentation of quality reviews and required post-compounding process and procedures.

14. California Code of Regulations, title 16, section 1735.7 states:

“(a) A pharmacy engaged in compounding shall maintain documentation demonstrating that personnel involved in compounding have the skills and training required to properly and accurately perform their assigned responsibilities and documentation demonstrating that all personnel involved in compounding are trained in all aspects of policies and procedures. This training shall include but is not limited to support personnel (e.g. institutional environmental services, housekeeping), maintenance staff, supervising pharmacist and all others whose jobs are related to the compounding process.

//

//

//

1 (b) The pharmacy shall develop and maintain an on-going competency evaluation process
2 for pharmacy personnel involved in compounding, and shall maintain documentation of any and
3 all training related to compounding undertaken by pharmacy personnel.

4 (c) Pharmacy personnel assigned to compounding duties shall demonstrate knowledge
5 about processes and procedures used in compounding prior to compounding any drug
6 preparation."

7 15. California Code of Regulations, title 16, section 1707.5(d) states:

8 "The pharmacy shall have policies and procedures in place to help patients with limited or
9 no English proficiency understand the information on the label as specified in subdivision (a) in
10 the patient's language. The pharmacy's policies and procedures shall be specified in writing and
11 shall include, at minimum, the selected means to identify the patient's language and to provide
12 interpretive services and translation services in the patient's language. The pharmacy shall, at
13 minimum, provide interpretive services in the patient's language, if interpretive services in such
14 language are available, during all hours that the pharmacy is open, either in person by pharmacy
15 staff or by use of a third-party interpretive service available by telephone at or adjacent to the
16 pharmacy counter."

17 COST RECOVERY

18 16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
22 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
23 included in a stipulated settlement.

24 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

25 17. Trazadone, brand name Desyrel, is used to treat depression and is a dangerous drug
26 pursuant to Business and Professions Code section 4022.

27 //

28 //

1 18. Alprazolam, brand name Xanax, is used to treat anxiety and is a Schedule IV
2 controlled substance pursuant to Health and Safety Code section 11057(d)(1), and a dangerous
3 drug pursuant to Business and Professions Code section 4022.

4 19. Citalopram, brand name Celexa, is used to treat depression and is a dangerous drug
5 pursuant to Business and Professions Code section 4022.

6 20. Lithium Carbonate, brand name Eskalith, is used to treat Bipolar Disorder and is a
7 dangerous drug pursuant to Business and Professions Code section 4022.

8 21. Olanzapine, brand name Zyprexa, is used to treat Schizophrenia and Bipolar Disorder
9 and is a dangerous drug pursuant to Business and Professions Code section 4022.

10 22. Clonazepam, brand name Klonopin, is used to treat anxiety and is a Schedule IV
11 controlled substance pursuant to Health and Safety Code section 11057(d)(7), and a dangerous
12 drug pursuant to Business and Professions Code section 4022.

13 **FACTUAL BACKGROUND**

14 23. On or about July 14, 2016, the Board received a complaint stating that Respondent
15 Longoria, an 81-year-old pharmacist, was providing unauthorized prescription medication to the
16 complainant's 23-year old female cousin ("E.D.") who had mental health issues and had recently
17 moved from Texas into Respondent Longoria's residence in Fontana, California.

18 24. On or about July 13, 2016, the Fontana Police Department was contacted by E.D.'s
19 uncle requesting a welfare check at Respondent Longoria's residence. Upon arrival, Fontana
20 Police officers discovered E.D. having a psychotic episode. E.D. believed that someone was
21 "messing with her medications". Upon investigation into E.D.'s medications, Fontana Police
22 officers discovered that E.D. did not have a valid prescription for her medications. During the
23 investigation, Respondent Longoria admitted to police that he had been providing E.D. with the
24 following unauthorized prescription medications: (1) Trazadone (100 mg); (2) Citalopram (40
25 mg); (3) Clonazepam (1 mg); (4) Alprazolam (2 mg); (5) Olanzapine (5 mg); and (6) Lithium
26 Carbonate (150 and 300 mg). The vials containing the medications in Respondent Longoria's
27 home had the following quantities: 150 Lithium Carbonate; 30 Citalopram; 50 Clonazepam; 50
28 Trazadone; 50 Alprazolam; and 15 Olanzapine.

1 25. On or about September 26, 2016, criminal charges against Respondent Longoria were
2 filed in the case of *The People of the State of California vs. Louis Edward Longoria*, San
3 Bernardino Superior Court, Case No. 16CR-050981. The complaint was based on the following
4 violations: Count 1 - Health and Safety Code section 11379(a) (Transport/Etc Controlled
5 Substances), a felony; and Count 2- Business and Professions Code section 4059(a) (Furnish
6 Dangerous Drug/ w/o Prescription), a misdemeanor. On January 12, 2017, Respondent Longoria
7 pled guilty to Count 2. Count 1 was dismissed pursuant to the plea. The Court ordered
8 Respondent Longoria to pay a \$225 fine and placed on summary probation for three (3) years.

9 26. On or about October 4, 2016, Board inspectors visited Respondent Pharmacy located
10 at 15247 Eleventh Street in Victorville, CA to conduct an inspection and investigate the
11 complaint against Respondent Longoria. While in the waiting area, the inspectors observed two
12 different patients approach the register, receive their prescriptions and leave without being offered
13 or given a consultation from the pharmacist. After each transaction, the patients were interviewed
14 by a Board inspector to whom they confirmed that the prescriptions that were picked up were
15 indeed new. Patient L.T. picked up prescription Rx# 4017400, a new prescription for Tramadol
16 50 mg and patient A.A. picked up prescription Rx # 6134986, a new prescription for Ibuprofen
17 400 mg. Dispensing histories obtained afterwards also confirmed that the prescriptions were new.

18 27. During the site inspection on or about October 4, 2016 at Respondent Pharmacy,
19 Board inspectors met with Respondent Longoria (who was the Pharmacist-in-Charge), technician
20 Catherine Berg, and other staff members and discovered the following areas of non-compliance
21 with the laws and regulations governing the practice of pharmacy:

22 (a) Respondent Pharmacy's staff compounded drug preparations for patient specific
23 prescriptions as well as drug preparations for future use. A review of the compounding
24 worksheets revealed pharmacy staff only created a compounding worksheet when compounding
25 more drug product than needed for the initial prescription. No compounding worksheets were
26 created or available for drugs compounded only in the amount needed to fill the prescription;

27 //

28 //

1 (b) Respondent Longoria was unable to provide written documentation to demonstrate
2 that pharmacy personnel involved in compounding were properly trained in compounding or had
3 ongoing training;

4 (c) Respondent Longoria was unable to provide policies and procedures regarding theft
5 or impairment; and

6 (d) Respondent Longoria was unable to provide the policy and procedure to address how
7 the pharmacy would help patients with limited or no English proficiency understand the
8 information on the label.

9 **CAUSES FOR DISCIPLINE AS TO RESPONDENT LONGORIA ONLY:**

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Unprofessional Conduct– Criminal Conviction)

12 28. Respondent Longoria is subject to disciplinary action under Code section 4301(l)
13 because he has been convicted of a crime substantially related to his qualifications, functions, and
14 duties as a licensee. Specifically, Respondent Longoria was convicted of violating Code section
15 4059(a), a misdemeanor, on January 12, 2017 in the case of *The People of the State of California*
16 *vs. Louis Edward Longoria*, San Bernardino Superior Court, Case No. 16CR-050981.

17 Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs
18 23 through 25, as though set forth fully herein.

19 **SECOND CAUSE FOR DISCIPLINE**

20 (Unprofessional Conduct– Furnishing Dangerous Drugs

21 and Controlled Substances without a Prescription)

22 29. Respondent Longoria is subject to disciplinary action under Code section 4301,
23 subdivisions (j) and (o), as it relates to Code section 4059(a) and Health and Safety Code section
24 11379(a). Specifically, Respondent Longoria unlawfully furnished the following dangerous drugs
25 and/or controlled substances to E.D. without prescriber authorization: Trazadone 100 mg tablets;
26 Olanzapine 5 mg tablets; Citalopram 40 mg tablets; Lithium Carbonate 150 mg and 300 mg
27 capsules; Clonazepam 1 mg tablets; and Alprazolam 2 mg tablets. Complainant refers to, and by

28 //

1 this reference incorporates, the allegations contained in paragraphs 23 through 25, as though set
2 forth fully herein.

3 **CAUSES FOR DISCIPLINE AS TO BOTH RESPONDENT LONGORIA AND**
4 **RESPONDENT PHARMACY:**

5 **THIRD CAUSE FOR DISCIPLINE**

6 (Failure to Provide Consultation to Patients with New Prescriptions)

7 30. Respondent Longoria and Respondent Pharmacy are subject to disciplinary action
8 under California Code of Regulations section 1707.2(b)(1)(A), for failing to provide oral
9 consultation to two patients that picked up new prescriptions at Respondent Pharmacy on or about
10 October 4, 2016. Complainant refers to, and by this reference incorporates, the allegations
11 contained in paragraph 26, as though set forth fully herein.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 (Failure to Create and Maintain Proper Records of Compounded Drug Products)

14 31. Respondent Longoria and Respondent Pharmacy are subject to disciplinary action
15 under California Code of Regulations section 1735.3 for failure to create and maintain a
16 compounding record for drug product compounded in a quantity sufficient to fill one patient
17 specific prescription. Complainant refers to, and by this reference incorporates, the allegations
18 contained in paragraph 27, as though set forth fully herein.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 (Failure to Develop and/or Maintain Documentation Regarding Training of Compounding)

21 32. Respondent Longoria and Respondent Pharmacy are subject to disciplinary action
22 under California Code of Regulations section 1735.7 for failure to develop and/or maintain
23 written documentation to demonstrate that pharmacy personnel involved in compounding were
24 properly trained in compounding or had ongoing training. Complainant refers to, and by this
25 reference incorporates, the allegations contained in paragraph 27, as though set forth fully herein.

26 //

27 //

28 //

37. Pursuant to Code section 4307, if discipline is imposed on Original Pharmacist License Number RPH 24668 issued to Louis Edward Longoria, shall be prohibited from servicing as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Original Pharmacist License Number RPH 24668 is placed on probation or until Original Pharmacist License Number RPH 24668 is reinstated if the license is revoked.

PRAYER

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

1. Revoking or suspending Original Permit Number PHY 48593, issued to Hi Desert Compounding Pharmacy Corp. dba Prescription Shoppe, with Louis Edward Longoria as the Pharmacist-in-Charge;

2. Revoking or suspending Original Pharmacist License Number RPH 24668 issued to Louis Edward Longoria;

3. Prohibiting Hi Desert Compounding Pharmacy Corp. dba Prescription Shoppe from serving as manager, administrator, owner, member, director, officer, associate, or partner of a licensee for five years if Original Permit Number PHY 48593 is placed on probation or until Original Permit Number PHY 48593 is reinstated if Original Permit Number PHY 48593 issued to Hi Desert Compounding Pharmacy Corp. dba Prescription Shoppe is revoked;

4. Prohibiting Louis Edward Longoria from serving as manager, administrator, owner, member, director, officer, associate, or partner of a licensee for five years if Original Permit Number PHY 48593 is placed on probation or until Original Permit Number PHY 48593 is reinstated if Original Permit Number PHY 48593 issued to Hi Desert Compounding Pharmacy Corp. dba Prescription Shoppe is revoked;

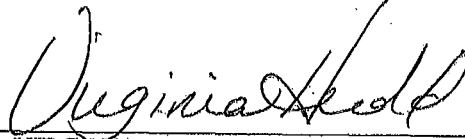
5. Prohibiting Catherine Berg from serving as manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Original Permit Number PHY 48593 is placed on probation or until Original Permit Number PHY 48593 is reinstated if Original Permit Number PHY 48593 issued to Hi Desert Compounding Pharmacy Corp. dba Prescription Shoppe is revoked;

1 6. Ordering Hi Desert Compounding Pharmacy Corp. dba Prescription Shoppe and
2 Louis Edward Longoria to pay the Board of Pharmacy the reasonable costs of the investigation
3 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

6
7 DATED: _____

9/5/17



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

8
9
10
11
12 LA2017506460
13 52579394_2.doc
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28