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

12 In the Matter of the Accusation Against:

13 **ROYAL CARE PHARMACY, STACI**
14 **MARMERSHTEYN, BORIS**
15 **SHENDEROVSKY, ALEKSANDR SURIS,**
16 **MAXIM SVERDLOV, OWNERS**
17 7300 Sunset Boulevard, Suite L
18 Los Angeles, CA 90046

19 Pharmacy License No. PHY 44271

20 and

21 **DIMITRY GOTLINSKY**
22 5216 Yarmouth Avenue, 302
23 Encino, CA 91316

24 Pharmacist License No. RPH 60239,

25 Respondents.

Case No. 6238

OAH No. 2020050406

**DEFAULT DECISION AND ORDER AS
TO RESPONDENT ROYAL CARE
PHARMACY ONLY**

[Gov. Code, §11520]

26 **FINDINGS OF FACT**

27 1. On or about May 24, 2019, Complainant Anne Sodergren (“Complainant”), in her
28 official capacity as the Executive Officer of the Board of Pharmacy (“Board”), Department of
Consumer Affairs, filed Accusation No. 6238 against Royal Care Pharmacy, Staci Marmershteyn,
Boris Shenderovsky, Aledsandr Suris, Maxim Sverdlov, Owners (“Respondent Royal Care”) and

1 Dimitry Gotlinsky (“Respondent Gotlinsky”) before the Board. On September 4, 2020,
2 Complainant filed First Amended Accusation No. 6238 against Respondent Royal Care and
3 Respondent Gotlinsky. (First Amended Accusation attached as Exhibit A.)

4 2. On or about August 20, 1999, the Board issued Pharmacist License Number PHY
5 44271 to Respondent Royal Care with Respondent Gotlinsky designated as the pharmacist-in-
6 charge from March 18, 2013, to July 29, 2016, Staci Marmershteyn (“Marmershteyn”) as the
7 President and 25% shareholder, Boris Shenderovsky (“Shenderovsky”), as the Vice-President and
8 25% shareholder, Aleksandr Suris (“Suris”) as the Director and 24% shareholder, and Maxim
9 Sverdlov (“Sverdlov”) as the Director and 25% shareholder. The Pharmacy License was in full
10 force and effect at all times relevant to the charges brought herein and expired on August 1, 2020,
11 and has not been renewed.

12 3. On or about June 13, 2019, Respondent Royal Care was served with Accusation No.
13 6238.

14 4. On or about June 26, 2019, Respondent Royal Care, Marmershteyn, Shenderovsky,
15 Suris, and Sverdlov signed and returned Notices of Defense, requesting a hearing in this matter.

16 5. On June 19, 2020, a Notice of Hearing was served by mail at the following addresses
17 of record for Respondent:

18 Royal Care Pharmacy
19 7300 Sunset Boulevard, Suite L
20 Los Angeles, CA 90046

21 Staci Marmershteyn
22 7300 Sunset Boulevard, Suite L
23 Los Angeles, CA 90046

24 Boris Shenderovsky
25 7300 Sunset Boulevard, Suite L
26 Los Angeles, CA 90046

27 Maxim Sverdlov
28 7300 Sunset Boulevard, Suite L
Los Angeles, CA 90046

Aleksandr Suris
7300 Sunset Boulevard, Suite L
Los Angeles, CA 90046

1 Seth Weinstein
2 Law Office of Seth Weinstein, P.C.
3 15260 Ventura Blvd., Suite 1200
4 Sherman Oaks, CA 91403
5 *Attorney for Respondent Gotlinsky*

6 Van F. Frish
7 Frish Law Group
8 21900 Burbank Blvd., #205
9 Woodland Hills, CA 91367
10 *Attorney for Suris and Sverdlov*

11 Bryan C. Altman
12 The Altman Law Group
13 10250 Constellation Blvd., Suite 2500
14 Los Angeles, CA 90067
15 *Attorney for Marmershteyn and Shenderovsky*

16 The Notice of Hearing informed all Respondents that an administrative hearing in this matter was
17 scheduled for November 9-10, 2020.

18 6. On or about September 14, 2020, Respondent Royal Care was served with Accusation
19 No. 6238.

20 7. On or about November 4, 2020, Marmershteyn and Shenderovsky filed withdrawals
21 of their notices of defense.

22 8. Service of the Accusation and First Amended Accusation was effective as a matter of
23 law under the provisions of Government Code section 11505(c) and/or Business and Professions
24 Code section 124.

25 9. The matter was called for hearing at the date, time and location set forth in the Notice
26 of Hearing. The assigned Administrative Law Judge found that the service of the Notice of
27 Hearing on all Respondents was proper. There was no appearance by or on behalf of any of the
28 Respondents. A default was declared and on motion of counsel for Complainant, the matter was
remanded to the Board under Government Code section 11520.

10. Government Code section 11506(c) states, in pertinent part:

(c) The respondent shall be entitled to a hearing on the merits if the respondent
files a notice of defense . . . and the notice shall be deemed a specific denial of all
parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
. . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
discretion may nevertheless grant a hearing.

11. California Government Code section 11520(a) states, in pertinent part:

(a) If the respondent either fails to file a notice of defense . . . or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent

12. Pursuant to its authority under Government Code section 11520, the Board finds Respondent Royal Care is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in First Amended Accusation No. 6238, finds that the charges and allegations in First Amended Accusation No. 6238, are separately and severally, found to be true and correct by clear and convincing evidence.

13. The Board finds that the actual costs for Investigation and Enforcement are \$16,835.75 as of October 7, 2020.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Royal Care Pharmacy, Staci Marmershteyn, Boris Shenderovsky, Aledsandr Suris, Maxim Sverdlov, Owners, has subjected its Pharmacy License No. PHY 44271 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Pharmacy is authorized to revoke Respondent Royal Care's Pharmacy License based upon the following violations alleged in the First Amended Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

a. Business and Professions Code section 4301, subdivisions (f) and (g): Respondent Royal Care committed acts involving moral turpitude, dishonesty, fraud, deceit or corruption when he knowingly submitted false and fraudulent prescription medication claims to Medicare for reimbursement.

b. Business and Professions Code section 4301, subdivisions (o) and (p): Respondent Royal Care committed acts violating the Pharmacy Law and/or federal and state laws that would have warranted denial of a license.

c. Business and Professions Code section 4301, subdivision (j): Respondent Royal Care exhibited unprofessional conduct by failing to comply with section 111295 of the Health and Safety Code, in that during execution of a search warrant on June 16, 2015, at Respondent Royal Care's pharmacy, outdated medications (approximately 60 medication containers) were found among other medications ready to be dispensed to patients.

d. Business and Professions Code section 4301, subdivision (j): Respondent Royal Care exhibited unprofessional conduct by failing to comply with sections 111340, 111390, and 111440 of the Health and Safety Code, in that during the execution of the search warrant on June 16, 2015, at Respondent Royal Care's pharmacy, overfill medication bottles were found among other medications ready to be dispensed to patients.

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ORDER

IT IS SO ORDERED that Pharmacy License No. PHY 44271, issued to Respondent Royal Care Pharmacy, Staci Marmershteyn, Boris Shenderovsky, Aledsandr Suris, Maxim Sverdlov, Owners, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 4, 2021 at 5:00 p.m.

It is so ORDERED January 5, 2021

FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

By



Greg Lippe
Board President

63735024.DOCX
DOJ Matter ID:LA2017506905

Attachment:
Exhibit A: First Amended
Accusation

Exhibit A

First Amended Accusation No. 6238

1 XAVIER BECERRA
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

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13 **ROYAL CARE PHARMACY, STACI**
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16 **MAXIM SVERDLOV, OWNERS**
7300 Sunset Boulevard, Suite L
Los Angeles, CA 90046

FIRST AMENDED ACCUSATION

17 Pharmacy License No. PHY 44271

18 and

19 **DIMITRY GOTLINSKY**
5216 Yarmouth Avenue, 302
Encino, CA 91316

20 Pharmacist License No. RPH 60239

21 Respondents.

22
23 Complainant alleges:

24 **PARTIES**

25 1. Anne Sodergren (Complainant) brings this First Amended Accusation solely in her
26 official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
27 Consumer Affairs.

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2. On or about August 20, 1999, the Board issued Pharmacist License Number PHY 44271 to Royal Care Pharmacy Inc., dba Royal Care Pharmacy with Dimitry Gotlinsky (Respondent Gotlinsky) designated as the pharmacist-in-charge from March 18, 2013, to July 29, 2016, Staci Marmershteyn as the President and 25% shareholder, Boris Shenderovsky, as the Vice-President and 25% shareholder, Aleksandr Suris (Suris) as the Director and 24% shareholder, and Maxim Sverdlov (Sverdlov) as the Director and 25% shareholder (Respondent Royal Care). The Pharmacy License was in full force and effect at all times relevant to the charges brought herein and expired on August 1, 2020, and has not been renewed.

3. On or about September 24, 2007, the Board issued Pharmacist License Number RPH 60239 to Respondent Gotlinsky. The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2020, unless renewed.

JURISDICTION AND STATUTORY PROVISIONS

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

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

6. Section 4300.1 of the Code states:

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

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1 7. Section 4300 of the Code states in pertinent part:

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

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

5 (1) Suspending judgment.

6 (2) Placing him or her upon probation.

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

9 (4) Revoking his or her license.

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

11

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

15 8. Section 4307 of the Code states in pertinent part:

16 (a) Any person who has been denied a license or whose license has been
17 revoked or is under suspension, or who has failed to renew his or her license while it
was under suspension, or who has been a manager, administrator, owner, member,
18 officer, director, associate, partner, or any other person with management or control
of any partnership, corporation, trust, firm, or association whose application for a
19 license has been denied or revoked, is under suspension or has been placed on
probation, and while acting as the manager, administrator, owner, member, officer,
20 director, associate, partner, or any other person with management or control had
knowledge of or knowingly participated in any conduct for which the license was
21 denied, revoked, suspended, or placed on probation, shall be prohibited from serving
as a manager, administrator, owner, member, officer, director, associate, partner, or in
22 any other position with management or control of a licensee as follows:

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

25 (2) Where the license is denied or revoked, the prohibition shall continue
26 until the license is issued or reinstated.

27 (b) 'Manager, administrator, owner, member, officer, director, associate,
partner, or any other person with management or control of a license' as used in this
28 section and Section 4308, may refer to a pharmacist or to any other person who serves
in such capacity in or for a licensee...

1 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
2 revoke a license on the ground that the licensee has been convicted of a crime substantially related
3 to the qualifications, functions, or duties of the business or profession for which the license was
4 issued.

5 10. Section 493 of the Code states:

6 Notwithstanding any other provision of law, in a proceeding conducted by
7 a board within the department pursuant to law to deny an application for a license or
8 to suspend or revoke a license or otherwise take disciplinary action against a person
9 who holds a license, upon the ground that the applicant or the licensee has been
10 convicted of a crime substantially related to the qualifications, functions, and duties of
11 the licensee in question, the record of conviction of the crime shall be conclusive
12 evidence of the fact that the conviction occurred, but only of that fact, and the board
13 may inquire into the circumstances surrounding the commission of the crime in order
14 to fix the degree of discipline or to determine if the conviction is substantially related
15 to the qualifications, functions, and duties of the licensee in question.

16 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
17 and 'registration.'

18 11. Section 4022 of the Code states

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

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

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

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

 12. Section 4301 of the Code states in pertinent part:

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

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

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

6 ...

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

9 ...

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

...

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

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

13. Section 111295 of the Health & Safety Code states:

It is unlawful for any person to manufacture, sell, deliver, hold, or offer for
sale any drug or device that is adulterated.

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14. Section 111340 of the Health & Safety Code states:

Any drug or device is misbranded unless it bears a label containing all of the following information:

(a) The name and place of business of the manufacturer, packer, or distributor.

(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

Reasonable variations from the requirements of subdivision (b) shall be permitted. Requirements for placement and prominence of the information and exemptions as to small packages shall be established in accordance with regulations adopted pursuant to Section 110380.

15. Section 111390 of the Health & Safety Code states:

Any drug or device is misbranded if its container is so made, formed, or filled as to be misleading.

16. Section 111440 of the Health & Safety Code states:

It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded.

REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 1770, states:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

COST RECOVERY

18. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

1 **DRUGS**

2 19. **Halcion (Generic Name: Triazolam 0.25 mg):** Halcion is a dangerous drug
3 pursuant to section 4022 and a Schedule IV Controlled Substance pursuant to Health & Safety
4 Code section 11057, subdivision (d)(30). Halcion is used to treat anxiety.

5 20. **Creon (Generic Name: Pancrelipase):** Creon is a dangerous drug pursuant to
6 section 4022 and is not a controlled substance. Creon is used to treat pancreatitis.

7 **FACTS**

8 21. As part of an investigation into Respondent Gotlinksy, in June 2015, the Office of the
9 Inspector General, Office of Investigations of the Department of Health and Human Services
10 contacted the Board and asked for assistance in executing a search warrant at Respondent Royal
11 Care. On or about June 16, 2015, Board investigators assisted a team of agents and investigators
12 from various state and federal agencies in executing a search warrant at Respondent Royal Care.
13 A Board investigator was assigned to examine Respondent Royal Care's pharmacy drug
14 inventories. An examination of all medications in the pharmacy revealed the following:

- 15 i. Expired drugs were found on the shelves among the drugs ready to be dispensed to
16 patients. The expired drugs included the following: Diazepam 10 mg, expiration date
17 04/15 and 11/14; Acetaminophen/Codeine 300/60 mg, expiration date 05/14; and
18 Chlorpromazine 100 mg, expiration date 09/14.
- 19 ii. The wholesale reorder stickers were placed on the manufacturer bottles of some drugs,
20 covering the manufacturer's lot numbers and expiration dates. This practice makes it
21 difficult to read the lot number and expiration date. When a pharmacist is verifying a
22 prescription, it is a standard of practice for the pharmacist to review the expiration date
23 on the manufacturer's bottle to determine the drug is not expired prior to dispensing
24 pursuant to a prescription. There was a bottle of Allopurinol 300 mg, delivered April
25 7, 2015, with the Trimed Wholesale sticker covering the lot number and expiration
26 date. There was a bottle of Tizanidine 4mg, delivered January 22, 2015, with the
27 Trimed Wholesale sticker covering the lot number and expiration date. There was a
28

bottle of Doxycycline 50 mg capsule, delivered September 2, 2014, with a sticker bearing a “panda” logo covering the lot number and expiration date.

iii. Misbranded medications (overfill) on the pharmacy shelves were found among other medications ready to be dispensed to patients. Overfilled medications are those that contain more tablets or capsules in a manufacturer’s container than the actual labeled package size. Overfilled bottles of medications are considered misbranded medications because the source of the extra capsules or tablets is uncertain. Even if the medication is purchased from a legitimate source, it would be impossible to identify the lot numbers or expiration dates of extra tablets or capsules exceeding the labeled amount on the container. The misbranded medications included Triazolam 0.25 (102 tablets found in a manufacturer’s bottle indicating a ten-tablet package size) and Creon (110 capsules found in a manufacturer’s bottle indicating a 100-capsule package size).

22. On or about July 5, 2016, in the United States District Court for the Central District of California, Case No. CR16-0459, the United States Attorney’s Office filed an Information document listing an allegation against Respondent Gotlinsky and two co-conspirators¹ alleging that they violated United States Code, title 18, section 1349 [conspiracy to commit health care fraud]. The Information alleges that between January 2014 and March 2015, Respondent Gotlinsky engaged in a conspiracy with Suris and Sverdlov to commit health care fraud in violation of United States Code, title 18, section 1347. While employed as the pharmacist-in-charge at Respondent Royal Care, Respondent Gotlinsky processed prescriptions for certain drugs, including but not limited to Lidoderm, Nexium, and Abilify. Respondent Gotlinsky, Suris and Sverdlov knowingly submitted false and fraudulent claims to Medicare² which indicated the prescribed medications were medically necessary and were provided to Medicare patients. In fact, Respondent Gotlinsky, Suris and Sverdlov knew the prescriptions had not actually been filled, that the prescribed

¹ Respondent’s co-conspirators were indicted in a separate court case, United States District Court, Central District of California Case No. CR17-00420. The co-conspirators are Suris and Sverdlov.

² Medicare is a federal health care benefit program that provides benefits to individuals who are 65 years and older or disabled. Medicare is administered by the Centers for Medicare and Medicaid Services, a federal agency under the United States Department of Health and Human Services.

1 medications had not been provided to Medicare beneficiaries, and that the prescribed medications
2 were not medically necessary. As a result of the false and fraudulent claims Respondent Gotlinsky,
3 Suris and Sverdlov submitted for reimbursement, Medicare reimbursed Respondent Royal Care at
4 least \$2,224,588 for the fraudulent claims.

5 23. On or about July 5, 2016, Respondent Gotlinsky entered into a plea agreement with
6 the United States of America in Case No. CR16-0459. Respondent Gotlinsky agreed to plead
7 guilty to one count of committing health care fraud in violation of United States Code, title 18,
8 section 1349. Respondent Gotlinsky admitted that he is, in fact, guilty of conspiring to commit
9 health care fraud in violation of United States Code, title 18, section 1349. He admitted that he
10 knowingly conspired with his two co-conspirators to commit health care fraud in violation of
11 United States Code, title 18, section 1349.

12 24. Respondent Gotlinsky admitted that in furtherance of the conspiracy, he caused
13 Respondent Royal Care to submit claims to Medicare for: (a) medications that Respondent Royal
14 Care had purportedly dispensed to Medicare beneficiaries but, in fact had never been provided to
15 the Medicare beneficiaries identified on the claims submitted to Medicare; and (b) medications that
16 were medically unnecessary.

17 25. Respondent Gotlinsky admitted that on “many occasions,” he caused Medicare to be
18 billed for medications purportedly provided on the basis of prescriptions that he knew neither he
19 nor anyone else at Respondent Royal Care had filled. He understood that, by submitting and
20 causing to be submitted these Medicare claims, he was falsely and fraudulently representing and
21 maintaining the pretense that the prescriptions had been dispensed to the Medicare beneficiaries
22 identified on the claims. Respondent Gotlinsky admitted that he committed these acts knowingly,
23 willfully, and with the intent to defraud.

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26 26. Respondent Gotlinsky admitted that on other occasions, he would cause Medicare to
27 be billed for medications that he knew were medically unnecessary because, among other reasons:
28 (a) certain medications at issue were duplicative of one another and there was no legitimate reason

1 to prescribe them to an individual simultaneously; and (b) the volume of the medications being
2 prescribed for an individual was unreasonably high. Respondent Gotlinsky admitted that he
3 committed these acts knowingly, willfully, and with the intent to defraud.

4 27. On or about August 8, 2016, Respondent Gotlinsky pled guilty to violating United
5 States Code, title 18, section 1349 [conspiracy to commit health care fraud] in Case No. CR16-
6 0459. On or about March 5, 2020, the court sentenced Respondent Gotlinsky and issued a
7 judgment against him. However, the sentence is under seal, and the terms of his sentence are
8 unknown to the Board.

9 28. On or about June 5, 2018, a grand jury issued a superseding indictment against Suris
10 and Sverdlov for violating United States Code, title 18, sections 1349 [conspiracy to commit
11 health care fraud]; 1347 [health care fraud]; 1956, subdivision (h) [conspiracy to commit money
12 laundering]; and 2, subdivision (b) [causing an act to be done]. The charges against Suris and
13 Sverdlov proceeded to a jury trial. After a 13-day trial, a jury found Sverdlov guilty of conspiracy
14 to commit health care fraud and conspiracy to commit money laundering. The jury found Sverdlov
15 guilty of conspiracy to commit health care fraud and conspiracy to commit money laundering, and
16 health care fraud. The court sentenced Suris and Sverdlov to 144 months in prison. Suris and
17 Sverdlov appealed their convictions, and their appeals are pending.

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19 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Fraud and Dishonesty – Respondent Royal Care)**

3 29. Respondent Royal Care is subject to disciplinary action pursuant to section 4301,
4 subdivisions (f) and (g), in that between January 2014 and March 2015, Respondent Royal Care
5 committed acts involving moral turpitude, dishonesty, fraud, deceit or corruption when he
6 knowingly submitted false and fraudulent prescription medication claims to Medicare for
7 reimbursement. Complainant refers to and by this reference incorporates the allegations set forth
8 above in paragraphs 18 through 28, inclusive, as though set forth fully.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Violating Pharmacy Law / Acts Warranting Denial of Licensure – Respondent Royal Care)**

11 30. Respondent Royal Care is subject to disciplinary action under Code section 4301,
12 subdivisions (o) and (p), on the grounds of unprofessional conduct, in that Respondent Royal Care
13 committed acts violating the Pharmacy Law and/or federal and state laws that would have
14 warranted denial of a license. Complainant refers to and by this reference incorporates the
15 allegations set forth above in paragraphs 18 through 28, inclusive, as though set forth fully.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct – Violating California Statutes Applicable to Pharmacy**
18 **– Respondent Royal Care)**

19 31. Respondent Royal Care's Pharmacy Permit is subject to disciplinary action pursuant to
20 section 4301, subdivision (j), in that Respondent Royal Care exhibited unprofessional conduct by
21 failing to comply with the provisions of the following California statutes:

- 22 (a) Section 111295 of the Health and Safety Code: During the execution of the
23 search warrant on June 16, 2015, at Respondent Royal Care's pharmacy,
24 outdated medications (approximately 60 medication containers) were found
25 among other medications ready to be dispensed to patients.

26 ///

27 ///

1 (b) Sections 111340, 111390, and 111440 of the Health and Safety Code: During
2 the execution of the search warrant on June 16, 2015, at Respondent Royal
3 Care's pharmacy, overfill medication bottles were found among other
4 medications ready to be dispensed to patients. Specifically, a bottle of
5 Triazolam 0.25 mg (manufacturer's package size of 10 tablets) contained 102
6 tablets, and a bottle of Creon (manufacturer's package size of 100 capsules)
7 contained 110 capsules of Creon.

8 Complainant refers to and by this reference incorporates the allegations set forth above in
9 paragraphs 18 through 28, inclusive, as though set forth fully.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct – Fraud and Dishonesty in License Renewal**
12 **– Respondent Gotlinsky)**

13 32. Respondent Gotlinsky's Pharmacist License is subject to disciplinary action pursuant
14 to section 4301, subdivisions (f) and (g), in that between January 2014 and March 2015,
15 Respondent Gotlinsky committed acts involving moral turpitude, dishonesty, fraud, deceit or
16 corruption when he knowingly submitted false and fraudulent prescription medication claims to
17 Medicare for reimbursement. Complainant refers to and by this reference incorporates the
18 allegations set forth above in paragraphs 18 through 28 inclusive, as though set forth fully.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Violating Pharmacy Law / Acts Warranting Denial of Licensure – Respondent Gotlinsky)**

21 33. Respondent Gotlinsky's pharmacist license is subject to disciplinary action under Code
22 section 4301, subdivisions (o) and (p), on the grounds of unprofessional conduct, in that
23 Respondent Gotlinsky committed acts violating the Pharmacy Law and/or federal and state laws
24 that would have warranted denial of a license. Complainant refers to and by this reference
25 incorporates the allegations set forth above in paragraphs 18 through 28, inclusive, as though set
26 forth fully.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Violating California Statutes Applicable to Pharmacy**
3 **– Respondent Gotlinsky)**

4 34. Respondent Gotlinsky's pharmacist license is subject to disciplinary action pursuant to
5 section 4301, subdivision (j), in that Respondent Gotlinsky exhibited unprofessional conduct by
6 failing to comply with the provisions of the following California statutes:

7 (a) Section 111295 of the Health and Safety Code: During the execution of the
8 search warrant on June 16, 2015, at Respondent Royal Care's pharmacy,
9 outdated medications (approximately 60 medication containers) were found
10 among other medications ready to be dispensed to patients.

11 (b) Sections 111340, 111390, and 111440 of the Health and Safety Code: During
12 the execution of the search warrant on June 16, 2015, at Respondent Royal
13 Care's pharmacy, overfill medication bottles were found among other
14 medications ready to be dispensed to patients. Specifically, a bottle of
15 Triazolam 0.25 mg (manufacturer's package size of 10 tablets) contained 102
16 tablets, and a bottle of Creon (manufacturer's package size of 100 capsules)
17 contained 110 capsules of Creon.

18 Complainant refers to and by this reference incorporates the allegations set forth above in
19 paragraphs 18 through 28, inclusive, as though set forth fully.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 **(Conviction of a Substantially Related Crime – Respondent Gotlinsky)**

22 35. Respondent Gotlinsky is subject to disciplinary action under Code section 4301, subdivision
23 (I), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent
24 was convicted of a crime substantially related to qualifications, functions, or duties of a registered
25 pharmacist which to a substantial degree evidence his present or potential unfitness to perform the
26 functions authorized by his registration in a manner consistent with the public health, safety, or
27 welfare, as fully alleged above. Complainant refers to and by this reference incorporates the
28 allegations set forth above in paragraphs 18 through 28, inclusive, as though set forth fully.

1 **OTHER MATTERS**

2 36. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
3 PHY 44271 issued to Royal Care Pharmacy, Inc., Royal Care Pharmacy Inc., shall be prohibited
4 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
5 of a licensee for five years if Pharmacy Permit Number PHY 44271 is placed on probation or until
6 Pharmacy Permit Number PHY 44271 is reinstated if it is revoked.

7 37. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
8 PHY 44271 issued to Royal Care Pharmacy, Inc., while Staci Marmershteyn, Boris Shenderovsky,
9 Aleksandr Suris, and/or Maxim Sverdlov have been an officer and owner and had knowledge of or
10 knowingly participated in any conduct for which the licensee was disciplined, Staci Marmershteyn,
11 Boris Shenderovsky, Aleksandr Suris, and/or Maxim Sverdlov shall be prohibited
12 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
13 of a licensee for five years if Pharmacy Permit Number PHY 44271 is placed on probation or until
14 Pharmacy Permit Number PHY 44271 is reinstated if it is revoked.

15 **PRAYER**

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

18 1. Revoking or suspending Pharmacy Permit Number PHY 44271, issued to Royal Care
19 Pharmacy, Inc.;

20 2. Revoking or suspending Pharmacist License Number RPH 60239, issued to Dimitry
21 Gotlinsky;

22 3. Prohibiting Royal Care Pharmacy, Inc., from serving as a manager, administrator,
23 owner, member, officer, director, associate, or partner of a licenses for five years if Pharmacy
24 Permit Number PHY 44271 is placed on probation or until Pharmacy Permit Number PHY 44271
25 is reinstated if Pharmacy Permit Number PHY 44271 issued to Royal Care Pharmacy, Inc., is
26 revoked;

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1 4. Prohibiting Staci Marmershteyn, Boris Shenderovsky, Aleksandr Suris, and/or Maxim
2 Sverdlov from serving as a manager, administrator, owner, member, officer, director, associate, or
3 partner of a licensee for five years if Pharmacy Permit Number PHY 44271 is placed on probation
4 or until Pharmacy Permit Number PHY 44271 is reinstated if Pharmacy Permit Number PHY
5 44271 issued to Royal Care Pharmacy, Inc., is revoked;

6 5. Ordering Royal Care Pharmacy Inc. and Dimitry Gotlinsky to pay the Board of
7 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
8 Business and Professions Code section 125.3; and

9 5 Taking such other and further action as deemed necessary and proper.

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11
12 DATED: 9/4/2020
13 _____

Anne Sodergren

14 _____
15 ANNE SODERGREN
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant

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