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

In the Matter of the Accusation Against:

ROYAL CARE PHARMACY, PHY 44271

and

DIMITRY GOTLINSKY, RPH 60239

Respondents

Case number 6238

OAH No. 2020050406

DECISION AND ORDER

The attached Stipulated Surrender of License 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 February 4, 2021.

It is so ORDERED on January 5, 2021.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

My n. Lippe

Ву

Greg Lippe Board President

1	XAVIER BECERRA	
2	Attorney General of California LINDA L. SUN	
3	Supervising Deputy Attorney General STEPHEN D. SVETICH	
4	Deputy Attorney General State Bar No. 272370	
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013	
6	Telephone: (213) 269-6306 Facsimile: (916) 731-2126	
7	E-mail: Stephen.Svetich@doj.ca.gov Attorneys for Complainant	
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9	BEFOR BOARD OF F	
10	DEPARTMENT OF CO STATE OF C	
11		
12	In the Matter of the Accusation Against:	Case No. 6238
13	ROYAL CARE PHARMACY, STACI	OAH No. 2020050406
14	MARMERSHTEYN, BORIS SHENDEROVSKY, ALEKSANDR SURIS,	STIPULATED SURRENDER OF LICENSE AND ORDER AS TO
15	MAXIM SVERDLOV, OWNERS 7300 Sunset Boulevard, Suite L	RESPONDENT DIMITRY GOTLINSKY ONLY
16	Los Angeles, CA 90046	
17	Pharmacy Permit No. PHY 44271	
18	and	
19	DIMITRY GOTLINSKY 5216 Yarmouth Avenue, 302	
20	Encino, CA 91316	
21	Pharmacist License No. RPH 60239,	
22	Respondents.	
23		
24		ment of this matter, consistent with the public
25	interest and the responsibility of the Board of Pha	
26	the parties hereby agree to the following Stipulate	
27	be submitted to the Board for approval and adopti	-
28	Accusation solely with respect to Respondent Din	nitry Gotlinsky. It does not apply to
		1 or of License as to Respondent Dimitry Gotlinsky Only
		A OF LICENSE as to Respondent Diffinity Obtilisky Offy

1	Respondent Royal Care Pharmacy, Staci Marmershteyn, Boris Shenderovsky, Aledsandr Suris,
2	Maxim Sverdlov, Owners.
3	PARTIES
4	1. Anne Sodergren ("Complainant") is the Executive Officer of the Board of Pharmacy
5	("Board"). She brought this action solely in her official capacity and is represented in this matter
6	by Xavier Becerra, Attorney General of the State of California, by Stephen D. Svetich, Deputy
7	Attorney General.
8	2. Respondent Dimitry Gotlinsky ("Respondent Gotlinsky") is represented in this
9	proceeding by attorney Seth Weinstein, whose address is: Seth Weinstein, Esq., Law Offices of
10	Seth Weinstein, P.C., 15260 Ventura Blvd., Suite 1200, Sherman Oaks, CA 91403.
11	3. On or about September 25, 2007, the Board issued Pharmacist License No. RPH
12	60239 to Respondent Gotlinsky. The Pharmacist License was in full force and effect at all times
13	relevant to the charges brought in First Amended Accusation No. 6238 and will expire on
14	December 31, 2020, unless renewed.
15	JURISDICTION
16	4. Accusation No. 6238 was filed before the Board, and is currently pending against
17	Respondent Gotlinsky. The Accusation and all other statutorily required documents were
18	properly served on Respondent Gotlinsky on June 13, 2019. Respondent Gotlinsky timely filed
19	his Notice of Defense contesting the Accusation. On September 4, 2020, the Board filed First
20	Amended Accusation No. 6238. The First Amended Accusation and all other statutorily required
21	documents were properly served on Respondent Gotlinsky on June 19, 2020. A copy of First
22	Amended Accusation No. 6238 is attached as $\underline{Exhibit A}$ and incorporated by reference.
23	ADVISEMENT AND WAIVERS
24	5. Respondent Gotlinsky has carefully read, fully discussed with counsel, and
25	understands the charges and allegations in First Amended Accusation No. 6238. Respondent
26	Gotlinsky also has carefully read, fully discussed with counsel, and understands the effects of this
27	Stipulated Surrender of License and Order.
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	2
	Stipulated Surrender of License as to Respondent Dimitry Gotlinsky Only

Stipulated Surrender of License as to Respondent Dimitry Gotlinsky Only (Case No. 6238)

1	6. Respondent Gotlinsky is fully aware of his legal rights in this matter, including the
2	right to a hearing on the charges and allegations in the First Amended Accusation; the right to
3	confront and cross-examine the witnesses against him; the right to present evidence and to testify
4	on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses
5	and the production of documents; the right to reconsideration and court review of an adverse
6	decision; and all other rights accorded by the California Administrative Procedure Act and other
7	applicable laws.
8	7. Respondent Gotlinsky voluntarily, knowingly, and intelligently waives and gives up
9	each and every right set forth above.
10	CULPABILITY
11	8. Respondent Gotlinsky understands that the charges and allegations in First Amended
12	Accusation No. 6238, if proven at a hearing, constitute cause for imposing discipline upon his
13	Pharmacist License.
14	9. For the purpose of resolving the First Amended Accusation without the expense and
15	uncertainty of further proceedings, Respondent Gotlinsky agrees that, at a hearing, Complainant
16	could establish a factual basis for the charges in the First Amended Accusation and that those
17	charges constitute cause for discipline. Respondent Gotlinsky hereby gives up his right to
18	contest that cause for discipline exists based on those charges.
19	10. Respondent Gotlinsky understands that by signing this stipulation, he enables the
20	Board to issue an order accepting the surrender of his Pharmacist License without further process.
21	<u>CONTINGENCY</u>
22	11. This stipulation shall be subject to approval by the Board. Respondent Gotlinsky
23	understands and agrees that counsel for Complainant and the staff of the Board may communicate
24	directly with the Board regarding this stipulation and surrender, without notice to or participation
25	by Respondent Gotlinsky or his counsel. By signing the stipulation, Respondent Gotlinsky

26 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation

- 27 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
- 28 as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or

effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, 1 2 and the Board shall not be disqualified from further action by having considered this matter. 12. The parties understand and agree that Portable Document Format ("PDF") and 3 facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile 4 signatures thereto, shall have the same force and effect as the originals. 5 13. This Stipulated Surrender of License and Order is intended by the parties to be an 6 integrated writing representing the complete, final, and exclusive embodiment of their agreement. 7 It supersedes any and all prior or contemporaneous agreements, understandings, discussions, 8 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order 9 10 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties. 11 In consideration of the foregoing admissions and stipulations, the parties agree that 14. 12 the Board may, without further notice or formal proceeding, issue and enter the following Order: 13 ORDER 14 IT IS HEREBY ORDERED that Pharmacist License No. RPH 60239, issued to Respondent 15 Dimitry Gotlinsky, is surrendered and accepted by the Board. 16 The surrender of Respondent Gotlinsky's Pharmacist License and the acceptance of 1. 17 the surrendered license by the Board shall constitute the imposition of discipline against 18 Respondent Gotlinsky. This stipulation constitutes a record of the discipline and shall become a 19 part of Respondent Gotlinsky's license history with the Board. 202. 21 Respondent Gotlinsky shall lose all rights and privileges as a Pharmacist in California as of the effective date of the Board's Decision and Order. 22 3. Respondent Gotlinsky shall cause to be delivered to the Board his pocket license and, 23 24 if one was issued, his wall certificate on or before the effective date of the Decision and Order. 4. Respondent Gotlinsky may not apply, reapply, or petition for any licensure or 25 registration of the Board for three (3) years from the effective date of the Decision and Order. 26 Respondent Gotlinsky shall satisfy all requirements applicable to that license as of the date the 27 application is submitted to the board, including, but not limited to, taking and passing licensing 28 4

examination(s) as well as fulfilling any education or experience requirements prior to the issuance
 of a new license.

5. If he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent Gotlinsky must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 6238 shall be deemed to be true, correct, and admitted by Respondent Gotlinsky when the Board determines whether to grant or deny the application or petition.

9 6. Respondent Gotlinsky shall pay the agency its costs of investigation and enforcement
10 in the amount of \$4,000.00 prior to issuance of a new or reinstated license.

If Respondent Gotlinsky should ever apply or reapply for a new license or
 certification, or petition for reinstatement of a license, by any other health care licensing agency
 in the State of California, all of the charges and allegations contained in First Amended
 Accusation, No. 6238 shall be deemed to be true, correct, and admitted by Respondent Gotlinsky
 for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict
 licensure.

17

ACCEPTANCE

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

23 24 DATED: 25

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Respondent

Stipulated Surrender of License as to Respondent Dimitry Gotlinsky Only (Case No. 6238)

DIMITRY GOTLINSKY

examination(s) as well as fulfilling any education or experience requirements prior to the issuance
 of a new license.

5. If he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent Gotlinsky must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 6238 shall be deemed to be true, correct, and admitted by Respondent Gotlinsky when the Board determines whether to grant or deny the application or petition.

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10 in the amount of \$4,000.00 prior to issuance of a new or reinstated license.

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 certification, or petition for reinstatement of a license, by any other health care licensing agency
 in the State of California, all of the charges and allegations contained in First Amended
 Accusation, No. 6238 shall be deemed to be true, correct, and admitted by Respondent Gotlinsky
 for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict
 licensure.

ACCEPTANCE

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

17

23 DATED: 24 DIMITRÝ GOTLINSKY 25 Respondent 26 111 27 111 28 5 Stipulated Surrender of License as to Respondent Dimitry Gotlinsky Only

(Case No. 6238)

1	I have read and fully discussed with Respondent Dimitry Gotlinsky the terms and
2	conditions and other matters contained in this Stipulated Surrender of License and Order. I
2	approve its form and content.
4	
5	DATED:
6	SETH WEINSTEIN LAW OFFICES OF SETH WEINSTEIN,
7	P.C. Attorney for Respondent
8	nuoney joi nesponaeni
9	ENDORSEMENT
10	The foregoing Stipulated Surrender of License and Order is hereby respectfully submittee
11	for consideration by the Board of Pharmacy of the Department of Consumer Affairs.
12	DATED: Respectfully submitted,
13	XAVIER BECERRA Attorney General of California LINDA L. SUN
14	Supervising Deputy Attorney General
15	
16	STEPHEN D. SVETICH
17	Deputy Attorney General Attorneys for Complainant
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	6 Stipulated Surrender of License as to Respondent Dimitry Gotlinsky Only

1	I have read and fully discussed with Respondent Dimitry Gotlinsky the terms and
2	conditions and other matters contained in this Stipulated Surrender of License and Order. I
3	approve its form and content.
4	
5	DATED: 1-05-2020
6	SETH WEINSTEIN LAW OFFICES OF SETH WEINSTEIN,
7	P.C. Attorney for Respondent
8	
9	ENDORSEMENT
10	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
11	for consideration by the Board of Pharmacy of the Department of Consumer Affairs.
12	DATED: November 5, 2020 Respectfully submitted,
13	XAVIER BECERRA Attorney General of California
14	LINDA L. SUN Supervising Deputy Attorney General
15	Stratics June
16	STEPHEN D. SVETICH
17	Deputy Attorney General Attorneys for Complainant
18	
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	6 Stipulated Surrender of License as to Respondent Dimitry Gotlinsky Only
4	(Case No. 6238)

Exhibit A

First Amended Accusation No. 6238

1	XAVIER BECERRA	
2	Attorney General of California LINDA L. SUN	
3	Supervising Deputy Attorney General STEPHEN D. SVETICH	
4	Deputy Attorney General State Bar No. 272370	
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013	
6	Telephone: (213) 269-6306 Facsimile: (213) 897-2804	
7	E-mail: Stephen.Svetich@doj.ca.gov Attorneys for Complainant	
8	_	RE THE
9	DEPARTMENT OF (PHARMACY CONSUMER AFFAIRS
10	STATE OF C	CALIFORNIA
11	In the Matter of the Accusation Against:	Case No. 6238
12	ROYAL CARE PHARMACY, STACI	
13	MARMERSHTEYN, BORIS SHENDEROVSKY, ALEKSANDR SURIS, MANIM SVEDDLOV, OWNERS	FIRST AMENDED ACCUSATION
14	MAXIM SVERDLOV, OWNERS 7300 Sunset Boulevard, Suite L	
15	Los Angeles, CA 90046	
16	Pharmacy License No. PHY 44271	
17	and DIMUTRY COTHINSKY	
18	DIMITRY GOTLINSKY 5216 Yarmouth Avenue, 302	
19	Encino, CA 91316	
20	Pharmacist License No. RPH 60239	
21	Respondents.	
22		
23	Complainant alleges:	
24	PAR	<u>XTIES</u>
25	1. Anne Sodergren (Complainant) bring	gs this First Amended Accusation solely in her
26	official capacity as the Executive Officer of the E	Board of Pharmacy (Board), Department of
27	Consumer Affairs.	
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	(RC	OYAL CARE PHARMACY AND DIMITRY GOTLINSKY) FIRST AMENDED ACCUSATION

1	2. On or about August 20, 1999, the Board issued Pharmacist License Number PHY
2	44271 to Royal Care Pharmacy Inc., dba Royal Care Pharmacy with Dimitry Gotlinsky
3	(Respondent Gotlinksy) designated as the pharmacist-in-charge from March 18, 2013, to July 29,
4	2016, Staci Marmershteyn as the President and 25% shareholder, Boris Shenderovsky, as the
5	Vice-President and 25% shareholder, Aleksandr Suris (Suris) as the Director and 24%
6	shareholder, and Maxim Sverdlov (Sverdlov) as the Director and 25% shareholder (Respondent
7	Royal Care). The Pharmacy License was in full force and effect at all times relevant to the charges
8	brought herein and expired on August 1, 2020, and has not been renewed.
9	3. On or about September 24, 2007, the Board issued Pharmacist License Number RPH
10	60239 to Respondent Gotlinsky. The Pharmacist License was in full force and effect at all times
11	relevant to the charges brought herein and will expire on December 31, 2020, unless renewed.
12	JURISDICTION AND STATUTORY PROVISIONS
13	4. This First Amended Accusation is brought before the Board under the authority of the
14	following laws. All section references are to the Business and Professions Code (Code) unless
15	otherwise indicated.
16	5. Section 118, subdivision (b) of the Code, provides that the suspension, expiration,
17	surrender, or cancellation of a license shall not deprive the Board or Director of jurisdiction to
18	proceed with a disciplinary action during the period within which the license may be renewed,
19	restored, reissued or reinstated.
20	6. Section 4300.1 of the Code states:
21	The expiration, cancellation, forfeiture, or suspension of a board-issued
22	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
23	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
24	a decision suspending or revoking the license.
25	///
26	///
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	(ROYAL CARE PHARMACY AND DIMITRY GOTLINSKY) FIRST AMENDED ACCUSATION

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 year.
8 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	
2	(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
13	Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the
14	superior court pursuant to Section 1094.5 of the Code of Civil Procedure.
15 16	8. Section 4307 of the Code states in pertinent part:
17	(a) Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it
18	was under suspension, or who has been a manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control
19	of any partnership, corporation, trust, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on
20	probation, and while acting as the manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control had
21	knowledge of or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving
22	as a manager, administrator, owner, member, officer, director, associate, partner, or in 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
24	placed on probation, this prohibition shall remain in effect for a period not to exceed five years.
25 26	(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.
26 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 3
	(ROYAL CARE PHARMACY AND DIMITRY GOTLINSKY FIRST AMENDED ACCUSATION

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 7	Notwithstanding any other provision of law, in a proceeding conducted by 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 who holds a license, upon the ground that the applicant or the licensee has been
9	convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive
10	evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order
11	to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.
12	As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'
13	11. Section 4022 of the Code states
14	"Dangerous drug" or "dangerous device" means any drug or device
15	unsafe for self-use in humans or animals, and includes the following:
16 17	(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without prescription,' 'Rx only,' or words of similar import.
18 19	(b) Any device that bears the statement: 'Caution: federal law restricts this device to sale by or on the order of a,' 'Rx only,' or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
20	(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.
21	12. Section 4301 of the Code states in pertinent part:
22	The board shall take action against any holder of a license who is guilty of
23	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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28	4 (ROYAL CARE PHARMACY AND DIMITRY GOTLINSKY)
	(ROTAL CARE PHARMACT AND DIMITRT GOTLINST) FIRST AMENDED ACCUSATION

1	(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.
2 3	(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.
4	
5	(j) The violation of any of the statutes of this state, of any other state, or
6	of the United States regulating controlled substances and dangerous drugs.
7	
8	(<i>l</i>) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a final duties of a licensee under the chapter. The record of conviction of a final duties of a licensee under the chapter. The record of conviction of a final duties of a licensee under the chapter.
9	violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this
10	state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may
11	inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled
12	substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this
13	chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take
14	action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the
15 16	imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
10	information, or indictment.
18	
19	(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
20	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
21	federal regulatory agency
22	(p) Actions or conduct that would have warranted denial of a license
23	13. Section 111295 of the Health & Safety Code states:
24	It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is adulterated.
25	
26	
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28	5
	(ROYAL CARE PHARMACY AND DIMITRY GOTLINSKY) FIRST AMENDED ACCUSATION

1	14. Section 111340 of the Health & Safety Code states:
2	Any drug or device is misbranded unless it bears a label containing all of the following information:
3 4	(a) The name and place of business of the manufacturer, packer, or distributor.
5	(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.
6 7 8	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
8 9	adopted pursuant to Section 110380.15. Section 111390 of the Health & Safety Code states:
10	Any drug or device is misbranded if its container is so made, formed, or filled as to be misleading.
11	16. Section 111440 of the Health & Safety Code states:
12 13	It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded.
14	
15	REGULATORY PROVISIONS 17. California Code of Regulations, title 16, section 1770, states:
16 17 18 19	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.
20	COST RECOVERY
21	18. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
22 23	administrative law judge to direct a licentiate found to have committed a violation or violations of
23	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25	enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
26	renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.
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28	6
	(ROYAL CARE PHARMACY AND DIMITRY GOTLINSKY) FIRST AMENDED ACCUSATION

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	7
	(ROYAL CARE PHARMACY AND DIMITRY GOTLINSKY) FIRST AMENDED ACCUSATION

1	bottle of Doxycycline 50 mg capsule, delivered September 2, 2014, with a sticker		
2	bearing a "panda" logo covering the lot number and expiration date.		
3	iii. Misbranded medications (overfill) on the pharmacy shelves were found among other		
4	medications ready to be dispensed to patients. Overfilled medications are those that		
5	contain more tablets or capsules in a manufacturer's container than the actual labeled		
6	package size. Overfilled bottles of medications are considered misbranded medications		
7	because the source of the extra capsules or tablets is uncertain. Even if the medication		
8	is purchased from a legitimate source, it would be impossible to identify the lot		
9	numbers or expiration dates of extra tablets or capsules exceeding the labeled amount		
10	on the container. The misbranded medications included Triazolam 0.25 (102 tablets		
11	found in a manufacturer's bottle indicating a ten-tablet package size) and Creon (110		
12	capsules found in a manufacturer's bottle indicating a 100-capsule package size).		
13	22. On or about July 5, 2016, in the United States District Court for the Central District of		
14	California, Case No. CR16-0459, the United States Attorney's Office filed an Information		
15	document listing an allegation against Respondent Gotlinsky and two co-conspirators ¹ alleging that		
16	they violated United States Code, title 18, section 1349 [conspiracy to commit health care fraud].		
17	The Information alleges that between January 2014 and March 2015, Respondent Gotlinsky		
18	engaged in a conspiracy with Suris and Sverdlov to commit health care fraud in violation of United		
19	States Code, title 18, section 1347. While employed as the pharmacist-in-charge at Respondent		
20	Royal Care, Respondent Gotlinsky processed prescriptions for certain drugs, including but not		
21	limited to Lidoderm, Nexium, and Abilify. Respondent Gotlinsky, Suris and Sverdlov knowingly		
22	submitted false and fraudulent claims to Medicare ² which indicated the prescribed medications		
23	were medically necessary and were provided to Medicare patients. In fact, Respondent Gotlinsky,		
24	Suris and Sverdlovknew the prescriptions had not actually been filled, that the prescribed		
25	¹ Respondent's co-conspirators were indicted in a separate court case, United States District		
26	Court, Central District of California Case No. CR17-00420. The co-conspirators are Suris and Sverdlov.		
27	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		
28	Services, a federal agency under the United States Department of Health and Human Services. 8		
	(ROYAL CARE PHARMACY AND DIMITRY GOTLINSKY) FIRST AMENDED ACCUSATION		

medications had not been provided to Medicare beneficiaries, and that the prescribed medications
 were not medically necessary. As a result of the false and fraudulent claims Respondent Gotlinsky,
 Suris and Sverdlov submitted for reimbursement, Medicare reimbursed Respondent Royal Care at
 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 Gotlinksy 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 Gotlinksy 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 Gotlinksy admitted that he committed these acts knowingly, 23 willfully, and with the intend to defraud.

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26 26. Respondent Gotlinksy 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 gf one another and there was no legitimate reason

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

27. On or about August 8, 2016, Respondent Gotlinsky pled guilty to violating United
States Code, title 18, section 1349 [conspiracy to commit health care fraud] in Case No. CR160459. On or about March 5, 2020, the court sentenced Respondent Gotlinsky and issued a
judgment against him. However, the sentence is under seal, and the terms of his sentence are
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 health care fraud]; 1347 [health care fraud]; 1956, subdivision (h) [conspiracy to commit money 11 laundering]; and 2, subdivision (b) [causing an act to be done]. The charges against Suris and 12 Sverdlov proceeded to a jury trial. After a 13-day trial, a jury found Sverdlov guilty of conspiracy 13 14 to commit health care fraud and conspiracy to commit money laundering. The jury found Sverdlov guilty of conspiracy to commit health care fraud and conspiracy to commit money laundering, and 15 health care fraud. The court sentenced Suris and Sverdlov to 144 months in prison. Suris and 16 Sverdlov appealed their convictions, and their appeals are pending. 17

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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.		
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28	11		
	(ROYAL CARE PHARMACY AND DIMITRY GOTLINSKY) FIRST AMENDED ACCUSATION		

(b) Sections 111340, 111390, and 111440 of the Health and Safety Code: 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. Specifically, a bottle of		
Triazolam 0.25 mg (manufacturer's package size of 10 tablets) contained 102		
tablets, and a bottle of Creon (manufacturer's package size of 100 capsules)		
contained 110 capsules of Creon.		
Complainant refers to and by this reference incorporates the allegations set forth above in		
paragraphs 18 through 28, inclusive, as though set forth fully.		
FOURTH CAUSE FOR DISCIPLINE		
(Unprofessional Conduct – Fraud and Dishonesty in License Renewal		
– Respondent Gotlinsky)		
32. Respondent Gotlinsky's Pharmacist License is subject to disciplinary action pursuant		
to section 4301, subdivisions (f) and (g), in that between January 2014 and March 2015,		
Respondent Gotlinsky committed acts involving moral turpitude, dishonesty, fraud, deceit or		
corruption when he knowingly submitted false and fraudulent prescription medication claims to		
Medicare for reimbursement. Complainant refers to and by this reference incorporates the		
allegations set forth above in paragraphs 18 through 28 inclusive, as though set forth fully.		
FIFTH CAUSE FOR DISCIPLINE		
(Violating Pharmacy Law / Acts Warranting Denial of Licensure – Respondent Gotlinsky)		
33. Respondent Gotlinsky's pharmacist license is subject to disciplinary action under Code		
section 4301, subdivisions (o) and (p), on the grounds of unprofessional conduct, in that		
Respondent Gotlinsky committed acts violating the Pharmacy Law and/or federal and state laws		
that would have warranted denial of a license. Complainant refers to and by this reference		
incorporates the allegations set forth above in paragraphs 18 through 28, inclusive, as though set		
forth fully.		
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/// 12		
(ROYAL CARE PHARMACY AND DIMITRY GOTLINSKY) FIRST AMENDED ACCUSATION		

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 Gotlinksy 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	(l), 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.		
	(ROYAL CARE PHARMACY AND DIMITRY GOTLINSKY) FIRST AMENDED ACCUSATION		

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	<u>PRAYER</u>			
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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	(ROYAL CARE PHARMACY AND DIMITRY GOTLINSKY) FIRST AMENDED ACCUSATION			

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	Anne Sodergren		
13		ANNE SODERGREN Executive Officer		
14		Board of Pharmacy Department of Consumer Affairs		
15		State of California Complainant		
16		Complainant		
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