

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

In the Matter of the Accusation Against:

**E R PHARMACY RX INC., dba
E R PHARMACY RX, NAZIK NANCY
SIMONIAN, NATHANIEL JOHNSON,
Pharmacy Permit No. PHY 50257; and**

**HOWARD SCHULTZ,
Pharmacist License No. RPH 20459; and**

**NAZIK NANCY SIMONIAN,
Pharmacy Technician License No. TCH 44566,**

Respondents

Agency Case No. 6831

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 December 9, 2020.

It is so ORDERED on November 9, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Greg Lippe
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: (916) 731-2126
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 6831

13 **E R PHARMACY RX INC., DBA E R**
14 **PHARMACY RX, NAZIK NANCY**
15 **SIMONIAN, NATHANIEL JOHNSON**
16 **19500 Plummer St. D3**
17 **Northridge, CA 91324**

STIPULATED SURRENDER OF
LICENSE AND ORDER AS TO
RESPONDENT E R PHARMACY RX
INC. DBA E R PHARMACY RX, ONLY

18 **Pharmacy Permit No. PHY 50257,**

19 **HOWARD SCHULTZ**
20 **12600 Huston St.**
21 **North Hollywood, CA 91607**

22 **Pharmacist License No. RPH 20459,**

23 **and**

24 **NAZIK NANCY SIMONIAN**
25 **11588 Killimore Ave.**
26 **Porter Ranch, CA 91326**

27 **Pharmacy Technician License No. TCH**
28 **44566**

Respondents.

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

1 **PARTIES**

2 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
3 (Board). She brought this action solely in her official capacity and is represented in this matter by
4 Xavier Becerra, Attorney General of the State of California, by Brian Lee, Deputy Attorney
5 General.

6 2. E R Pharmacy RX Inc., dba E R Pharmacy Rx (Respondent) is represented in this
7 proceeding by attorney Herb L. Weinberg, Fenton Law Group, LLP whose address is: 1990 S.
8 Bundy Drive, Suite 777, Los Angeles, CA 90025.

9 3. On or about April 20, 2010, the Board issued Pharmacy Permit No. PHY 50257 to E
10 R Pharmacy RX Inc., dba E R Pharmacy Rx (Respondent), with Nazik Nancy Simonian and
11 Nathaniel Johnson identified as shareholders and officers. The Pharmacy Permit was cancelled
12 on November 7, 2019 due to Discontinuance of Business effective June 29, 2017.

13 **JURISDICTION**

14 4. Accusation No. 6831 was filed before the Board. The Accusation and all other
15 statutorily required documents were properly served on Respondent on January 24, 2020.
16 Respondent timely filed its Notice of Defense contesting the Accusation. On August 5, 2020,
17 First Amended Accusation No. 6831 was filed before the Board, and is currently pending against
18 Respondent.

19 5. A copy of First Amended Accusation No. 6831 is attached as Exhibit A and
20 incorporated by reference.

21 **ADVISEMENT AND WAIVERS**

22 6. Respondent has carefully read, fully discussed with counsel, and understands the
23 charges and allegations in First Amended Accusation No. 6831. Respondent also has carefully
24 read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of
25 License and Order.

26 7. Respondent is fully aware of its legal rights in this matter, including the right to a
27 hearing on the charges and allegations in the First Amended Accusation; the right to confront and
28 cross-examine the witnesses against it; the right to present evidence and to testify on its own

1 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
2 production of documents; the right to reconsideration and court review of an adverse decision;
3 and all other rights accorded by the California Administrative Procedure Act and other applicable
4 laws.

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

7 **CULPABILITY**

8 9. Respondent understands that the charges and allegations in First Amended
9 Accusation No. 6831, if proven at a hearing, constitute cause for imposing discipline upon its
10 Pharmacy Permit.

11 10. For the purpose of resolving the First Amended Accusation without the expense and
12 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
13 establish a factual basis for the charges in the First Amended Accusation and that those charges
14 constitute cause for discipline. Respondent hereby gives up its right to contest that cause for
15 discipline exists based on those charges.

16 11. Respondent understands that by signing this stipulation it enables the Board to issue
17 an order accepting the surrender of its Pharmacy Permit without further process.

18 **CONTINGENCY**

19 12. This stipulation shall be subject to approval by the Board. Respondent understands
20 and agrees that counsel for Complainant and the staff of the Board may communicate directly
21 with the Board regarding this stipulation and surrender, without notice to or participation by
22 Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that it
23 may not withdraw its agreement or seek to rescind the stipulation prior to the time the Board
24 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
25 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
26 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
27 be disqualified from further action by having considered this matter.

28 ///

1 6831 shall be deemed to be true, correct and admitted by Respondent when the Board determines
2 whether to grant or deny the application or petition.

3 6. If Respondent should ever apply or reapply for a new license or certification, or
4 petition for reinstatement of a license, by any other health care licensing agency in the State of
5 California, all of the charges and allegations contained in First Amended Accusation No. 6831
6 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement
7 of Issues or any other proceeding seeking to deny or restrict licensure.

8
9 **ACCEPTANCE**

10 I have carefully read the above Stipulated Surrender of License and Order and have fully
11 discussed it with my attorney Herb L. Weinberg. I understand the stipulation and the effect it will
12 have on my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order
13 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
14 Board of Pharmacy.

15
16 DATED: _____
17 NAZIK NANCY SIMONIAN, OWNER
18 E R PHARMACY RX INC., DBA E R
19 PHARMACY RX
20 *Respondent*

21 I have read and fully discussed with Respondent E R Pharmacy RX Inc., dba E R Pharmacy
22 Rx the terms and conditions and other matters contained in this Stipulated Surrender of License
23 and Order. I approve its form and content.

24
25 DATED: _____
26 HERB L. WEINBERG
27 *Attorney for Respondent*
28


1 6831 shall be deemed to be true, correct and admitted by Respondent when the Board determines
2 whether to grant or deny the application or petition.

3 6. If Respondent should ever apply or reapply for a new license or certification, or
4 petition for reinstatement of a license, by any other health care licensing agency in the State of
5 California, all of the charges and allegations contained in First Amended Accusation No. 6831
6 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement
7 of Issues or any other proceeding seeking to deny or restrict licensure.

8
9 ACCEPTANCE

10 I have carefully read the above Stipulated Surrender of License and Order and have fully
11 discussed it with my attorney Herb L. Weinberg. I understand the stipulation and the effect it will
12 have on my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order
13 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
14 Board of Pharmacy.

15
16 DATED: 9/21/2020



NAZIK NANCY SIMONIAN, OWNER
E R PHARMACY RX INC., DBA E R
PHARMACY RX
Respondent

17
18
19
20
21 I have read and fully discussed with Respondent E R Pharmacy RX Inc., dba E R Pharmacy
22 Rx the terms and conditions and other matters contained in this Stipulated Surrender of License
23 and Order. I approve its form and content.

24
25 DATED: 9/21/2020



HERB L. WEINBERG
Attorney for Respondent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
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: _____

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General

BRIAN LEE
Deputy Attorney General
Attorneys for Complainant

LA2019504777
63240457.docx

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
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: September 22, 2020

Respectfully submitted,

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



BRIAN LEE
Deputy Attorney General
Attorneys for Complainant

LA2019504777
63240457.docx

Exhibit A

First Amended Accusation No. 6831

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: (916) 731-2126
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 6831

13 **E R PHARMACY RX INC., DBA E R**
14 **PHARMACY RX, NAZIK NANCY**
15 **SIMONIAN, NATHANIEL JOHNSON**
19500 Plummer St. D3
Northridge, CA 91324

FIRST AMENDED ACCUSATION

16 **Pharmacy Permit No. PHY 50257,**

17 **NAZIK NANCY SIMONIAN**
11588 Killimore Ave.
18 **Porter Ranch, CA 91326**

19 **Pharmacy Technician License No. TCH**
44566,

20 **and**

21 **HOWARD SCHULTZ**
12600 Huston St.
22 **No. Hollywood, CA 91607**

23 **Pharmacist License No. RPH 20459**

24 Respondents.
25

26
27 ///

28 ///

1 **PARTIES**

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

5 2. On or about April 20, 2010, the Board issued Pharmacy Permit Number PHY 50257
6 to E R Pharmacy RX Inc. doing business as E R Pharmacy Rx (Respondent Pharmacy). Board
7 records show that Respondent Pharmacy is owned by Nathaniel Johnson (Treasurer, Chief
8 Financial Officer, and 51% owner) and Nazik Nancy Simonian (President and 49% owner). The
9 pharmacist-in-charge from February 1, 2012 to March 5, 2018 was Howard Schultz. The
10 Pharmacy Permit expired on April 1, 2019 and was not renewed. The Board canceled the
11 Pharmacy Permit on November 7, 2019.

12 3. On or about September 25, 2002, the Board issued Pharmacy Technician License
13 Number TCH 44566 to Nazik Nancy Simonian (Respondent Simonian). The Pharmacy
14 Technician License was in full force and effect at all times relevant to the charges brought herein
15 and will expire on April 30, 2022, unless renewed.

16 4. On or about July 27, 1957, the Board issued Pharmacist License Number RPH 20459
17 to Howard Schultz (Respondent Schultz). The Pharmacist License was in full force and effect at
18 all times relevant to the charges brought herein and will expire on April 30, 2022, unless renewed.

19 **JURISDICTION**

20 5. This First Amended Accusation is brought before the Board of Pharmacy (Board),
21 Department of Consumer Affairs, under the authority of the following laws. All section
22 references are to the Business and Professions Code (Code) unless otherwise indicated.

23 6. Section 4300 of the Code states:

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

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

27 (1) Suspending judgment.

28 (2) Placing him or her upon probation.

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

2 (4) Revoking his or her license.

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

5 . . .

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

11 7. Section 4300.1 of the Code states:

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

18 **STATUTORY PROVISIONS**

19 8. Section 4036.5 of the Code states:

20 "Pharmacist-in-charge" means a pharmacist proposed by a pharmacy and approved
21 by the board as the supervisor or manager responsible for ensuring the pharmacy's
22 compliance with all state and federal laws and regulations pertaining to the practice of
23 pharmacy.

24 9. Section 4113 of the Code states, in pertinent part, the following:

25 (a) Every pharmacy shall designate a pharmacist-in-charge and, within 30 days
26 thereof, shall notify the board in writing of the identity and license number of that
27 pharmacist and the date he or she was designated.

28 (b) The proposed pharmacist-in-charge shall be subject to approval by the board. The
board shall not issue or renew a pharmacy license without identification of an
approved pharmacist-in-charge for the pharmacy.

(c) The pharmacist-in-charge shall be responsible for a pharmacy's compliance with
all state and federal laws and regulations pertaining to the practice of pharmacy.

(d) Every pharmacy shall notify the board in writing, on a form designed by the
board, within 30 days of the date when a pharmacist-in-charge ceases to act as the
pharmacist-in-charge, and shall on the same form propose another pharmacist to take
over as the pharmacist-in-charge. The proposed replacement pharmacist-in-charge
shall be subject to approval by the board. If disapproved, the pharmacy shall propose
another replacement within 15 days of the date of disapproval and shall continue to
name proposed replacements until a pharmacist-in-charge is approved by the board.

1 (e) If a pharmacy is unable, in the exercise of reasonable diligence, to identify within
2 30 days a permanent replacement pharmacist-in-charge to propose to the board on the
3 notification form, the pharmacy may instead provide on that form the name of any
4 pharmacist who is an employee, officer, or administrator of the pharmacy or the
5 entity that owns the pharmacy and who is actively involved in the management of the
6 pharmacy on a daily basis, to act as the interim pharmacist-in-charge for a period not
7 to exceed 120 days....

8 10. Section 4301 of the Code states:

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

12 (a) Procurement of a license by fraud or misrepresentation.

13 ...

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

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

19 ...

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

25 11. Section 4307 states, in pertinent part:

26 "(a) Any person who has been denied a license or whose license has been
27 revoked or is under suspension, or who has failed to renew his or her license while it
28 was under suspension, or who has been a manager, administrator, owner, member,
officer, director, associate, or partner of any partnership, corporation, firm, or
association whose application for a 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, director, associate, or partner had 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 as a
manager, administrator, owner, member, officer, director, associate, or partner of a
licensee as follows:

(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 five
years.

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

1 **REGULATORY PROVISIONS**

2 12. California Code of Regulations (CCR), title 16, section 1708.2 states:

3 Any permit holder shall contact the board prior to transferring or selling any
4 dangerous drugs, devices or hypodermics inventory as a result of termination of
5 business or bankruptcy proceedings and shall follow official instructions given by the
6 board applicable to the transaction.

7 13. CCR, title 16, section 1709 states, in pertinent part:

8 “(a) Each permit to operate a pharmacy shall show the name and address of the
9 pharmacy, the form of ownership (individual, partnership or corporation) and the
10 pharmacist-in-charge. Each pharmacy shall, in its initial application on the annual
11 renewal form, report the name of the pharmacist-in-charge, the names of all owners
12 and the names of the corporate officers (if a corporation). Any changes in the
13 pharmacist-in-charge, or the owners, or corporate officers shall be reported to the
14 Board within 30 days.

15 . . .

16 (c) The following shall constitute a transfer of permit and require application
17 for a change of ownership: any transfer of a beneficial interest in a business entity
18 licensed by the board, in a single transaction or in a series of transactions, to any
19 person or entity, which transfer results in the transferee's holding 50% or more of the
20 beneficial interest in that license.”

21 **COST RECOVERY**

22 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licentiate found to have committed a violation or violations of
24 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
27 included in a stipulated settlement.

28 **FACTUAL ALLEGATIONS**

15 15. On or about January 24, 2019, a Board inspector attempted to conduct a routine
16 inspection of E R Pharmacy RX Inc. dba E R Pharmacy Rx (Respondent Pharmacy), located at
17 19500 Plummer Street, D3, Northridge, CA 91324. Upon arriving at the location, the inspector
18 found that the location was vacant and that the pharmacy was no longer in business. The

19 ///

1 inspector confirmed that Respondent Pharmacy failed to file a discontinuation of business form
2 with the Board prior to her inspection. An investigation was opened.

3 16. The Board's investigation determined that the majority owner and Treasurer of
4 Respondent Pharmacy, Nathaniel Johnson, passed away on September 21, 2014.

5 17. A review of the Board's records showed that on or about March 11, 2016, the
6 Board received a Request for a Renewal of Pharmacy form which was signed under penalty
7 of perjury by Nazik Nancy Simonian (Respondent Simonian) on March 1, 2016 stating
8 "that there has been no change of ownership, location, corporate officers, shareholders,
9 administrator or pharmacist-in-charge." Pharmacist-in-charge Howard Schultz (Respondent
10 Schultz) signed the form, under penalty of perjury, on March 8, 2016 stating "that all
11 statements attached thereto are true and accurate."

12 18. In 2017 and 2018, Respondents Simonian and Schultz submitted and signed
13 under the penalty of perjury, a License Renewal Application For Retail Pharmacy. By
14 signing, Respondent Simonian certified "that all statements, answers and representations in
15 [the] application are true and accurate. " Likewise, Respondent Schultz certified "that all
16 statements attached hereto, are true and accurate."

17 19. The License Renewal Application for Retail Pharmacy forms instruct the
18 applicant to contact the Board if any information regarding the Name, Title, and % Owned
19 is incorrect. It further provides in pertinent part: "A change of ownership and/or change of
20 physical location of a pharmacy requires a new application and must be submitted PRIOR
21 to the change occurring. Whenever a change of ownership occurs, either a temporary
22 license will need to be pursued or operation must stop until the entity is appropriately
23 licensed by the board...." Finally, the form instructs the applicant to "Submit a Change of
24 Permit application (17A-12), to notify the board of a change in corporate officers,
25 shareholders or when there has been a transfer of beneficial interest of 10%-49%."

26 20. Pharmacist-in-charge of Respondent Pharmacy, Respondent Schultz, filed a
27 notice of disassociation with the Board disassociating from Respondent Pharmacy effective
28 March 5, 2018.

1 21. In 2019, Respondent Simonian again submitted a License Renewal Application
2 for Retail Pharmacy form affirming “that all statements, answers and representations in
3 [the] application are true and accurate.” The application was incomplete due to the fact that
4 the signature line for the pharmacist-in-charge was blank. On or about June 21, 2019, the
5 Board received the signature of Respondent Schultz who identified himself as the
6 pharmacist-in-charge of Respondent Pharmacy despite having been disassociated and
7 previously acknowledging the discontinuance of Respondent Pharmacy’s business.

8 22. On or about April 9, 2019, the Board inspector contacted Respondent Simonian
9 by phone to discuss her findings. Respondent Simonian stated that Respondent Pharmacy
10 sold its prescriptions and drugs to another retail pharmacy. The Board was not previously
11 notified that such sale had occurred, which was back in June of 2017.

12 23. A Discontinuance of Business (DOB) form was submitted to the Board on or
13 about October 24, 2019. The form shows that Respondent Schultz signed the form on
14 March 11, 2019 as the Pharmacist-in-Charge. It also shows that Respondent Simonian
15 signed it on the same date and acknowledged the signature again by initialing the form on
16 October 24, 2019 when it was submitted. The date of discontinuance is listed as June 29,
17 2017.

18 **CAUSES FOR DISCIPLINE AS TO RESPONDENT PHARMACY ONLY:**

19 **FIRST CAUSE FOR DISCIPLINE**

20 (Unprofessional Conduct – Procurement of License by Misrepresentation)

21 24. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
22 subdivision (a), for submitting application and renewal forms to the Board misrepresenting the
23 ownership interests in the business. Moreover, Respondent Pharmacy continued to submit license
24 renewal forms to the Board even after it had discontinued operating as a pharmacy when it sold
25 its prescription files and inventory to another pharmacy in June of 2017. Complainant refers to,
26 and by this reference incorporates, the allegations contained in paragraphs 15 through 23, as
27 though set forth fully herein.

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct – Commission of Dishonest Act)

3 25. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
4 subdivision (f), for committing dishonest acts by submitting application and renewal forms to the
5 Board misrepresenting the ownership interests in the business. Moreover, Respondent Pharmacy
6 continued to submit license renewal forms to the Board even after it had discontinued operating
7 as a pharmacy when it sold its prescription files and inventory to another pharmacy in June of
8 2017. Complainant refers to, and by this reference incorporates, the allegations contained in
9 paragraphs 15 through 23, as though set forth fully herein.

10 **THIRD CAUSE FOR DISCIPLINE**

11 (Unprofessional Conduct – Knowingly Signing Documents Known to Be False)

12 26. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
13 subdivision (g), for knowingly signing documents that falsely represent the ownership interests in
14 the business. Moreover, Respondent Pharmacy continued to submit license renewal forms to the
15 Board even after it had discontinued operating as a pharmacy when it sold its prescription files
16 and inventory to another pharmacy in June of 2017. Complainant refers to, and by this reference
17 incorporates, the allegations contained in paragraphs 15 through 23, as though set forth fully
18 herein.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 (Unprofessional Conduct – Failure to Notify the Board Prior to Sale of Drugs)

21 27. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
22 subdivision (o), in conjunction with California Code of Regulations, title 16, section 1708.2, for
23 failing to contact the Board prior to transferring or selling any dangerous drugs, devices or
24 hypodermics inventory as a result of termination of business. Complainant refers to, and by this
25 reference incorporates, the allegations contained in paragraphs 15 through 23, as though set forth
26 fully herein.

27 ///

28 ///

1 **FIFTH CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct – Failure to Report Correct Names of Owners and Officers)

3 28. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
4 subdivision (o), in conjunction with California Code of Regulations, title 16, section 1709,
5 subdivisions (a), for failing to report on its application and annual renewal forms the correct
6 names of all owners and corporate officers and for failing to notify the Board within the 30 days
7 of any changes to the owners and corporate officers. Complainant refers to, and by this reference
8 incorporates, the allegations contained in paragraphs 15 through 23, as though set forth fully
9 herein.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 (Unprofessional Conduct – Operating Without Submitting Application for Change in Ownership)

12 29. Respondent Pharmacy is subject to disciplinary action under Code section 4301(o), in
13 conjunction with California Code of Regulations, title 16, section 1709, subdivisions (c), for
14 operating without submitting an application for change in ownership. Complainant refers to, and
15 by this reference incorporates, the allegations contained in paragraphs 15 through 23, as though
16 set forth fully herein.

17 **SEVENTH CAUSE FOR DISCIPLINE**

18 (Unprofessional Conduct – Failure to Designate a Pharmacist-in-Charge)

19 30. Respondent Pharmacy is subject to disciplinary action under Code sections 4301(o)
20 and 4113, for failing to designate a Pharmacist-in-Charge within 30 days following the
21 disassociation of Respondent Schultz on or about March 5, 2018. Complainant refers to, and by
22 this reference incorporates, the allegations contained in paragraphs 15 through 23, as though set
23 forth fully herein.

24 **CAUSES FOR DISCIPLINE AS TO RESPONDENT SIMONIAN ONLY:**

25 **EIGHTH CAUSE FOR DISCIPLINE**

26 (Unprofessional Conduct – Procurement of License by Misrepresentation)

27 31. Respondent Simonian is subject to disciplinary action under Code section 4301,
28 subdivisions (a) and (o), for signing and submitting application and renewal forms to the Board

1 misrepresenting the ownership interests in Respondent Pharmacy. Moreover, Respondent
2 Simonian continued to sign and submit license renewal forms to the Board even after Respondent
3 Pharmacy had discontinued to operate as a pharmacy when it sold its prescription files and
4 inventory to another pharmacy in June of 2017. Complainant refers to, and by this reference
5 incorporates, the allegations contained in paragraphs 15 through 23, as though set forth fully
6 herein.

7 **NINTH CAUSE FOR DISCIPLINE**

8 (Unprofessional Conduct – Commission of Dishonest Act)

9 32. Respondent Simonian is subject to disciplinary action under Code section 4301,
10 subdivision (f), for committing dishonest acts by signing, under the penalty of perjury, application
11 and renewal forms misrepresenting the ownership interests in Respondent Pharmacy and
12 submitting them to the Board. Moreover, Respondent Simonian continued to sign and submit
13 license renewal forms to the Board even after Respondent Pharmacy had discontinued to operate
14 as a pharmacy when it sold its prescription files and inventory to another pharmacy in June of
15 2017. Complainant refers to, and by this reference incorporates, the allegations contained in
16 paragraphs 15 through 23, as though set forth fully herein.

17 **TENTH CAUSE FOR DISCIPLINE**

18 (Unprofessional Conduct – Knowingly Signing Documents Known to Be False)

19 33. Respondent Simonian is subject to disciplinary action under Code section 4301,
20 subdivision (g), for knowingly signing documents that falsely represent the ownership interests in
21 Respondent Pharmacy. Moreover, Respondent Simonian continued to sign and submit license
22 renewal forms to the Board even after Respondent Pharmacy had discontinued to operate as a
23 pharmacy when it sold its prescription files and inventory to another pharmacy in June of 2017.
24 Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs
25 15 through 23, as though set forth fully herein.

26 ///

27 ///

28 ///

1 **ELEVENTH CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct – Failure to Notify the Board Prior to Sale of Drugs)

3 34. Respondent Simonian is subject to disciplinary action under Code section 4301,
4 subdivision (o), in conjunction with California Code of Regulations, title 16, section 1708.2, for
5 her involvement in the failure to contact the Board prior to Respondent Pharmacy transferring or
6 selling any dangerous drugs, devices or hypodermics inventory as a result of termination of
7 business. Complainant refers to, and by this reference incorporates, the allegations contained in
8 paragraphs 15 through 23, as though set forth fully herein.

9 **TWELFTH CAUSE FOR DISCIPLINE**

10 (Unprofessional Conduct – Failure to Report Correct Names of Owners and Officers)

11 35. Respondent Simonian is subject to disciplinary action under Code section 4301,
12 subdivision (o), in conjunction with California Code of Regulations, title 16, section 1709,
13 subdivisions (a), for her involvement in Respondent Pharmacy’s failure to report on its
14 application and annual renewal forms the correct names of all owners and corporate officers and
15 for Respondent Pharmacy’s failure to notify the Board within the 30 days of any changes to the
16 owners and corporate officers. Complainant refers to, and by this reference incorporates, the
17 allegations contained in paragraphs 15 through 23, as though set forth fully herein.

18 **THIRTEENTH CAUSE FOR DISCIPLINE**

19 (Unprofessional Conduct – Operating Without Submitting Application for Change in Ownership)

20 36. Respondent Simonian is subject to disciplinary action under Code section 4301(o), in
21 conjunction with California Code of Regulations, title 16, section 1709, subdivisions (c), for her
22 involvement in Respondent Pharmacy’s continued operation without submitting an application
23 for change in ownership. Complainant refers to, and by this reference incorporates, the
24 allegations contained in paragraphs 15 through 23, as though set forth fully herein.

25 **FOURTEENTH CAUSE FOR DISCIPLINE**

26 (Unprofessional Conduct – Failure to Designate a Pharmacist-in-Charge)

27 37. Respondent Simonian is subject to disciplinary action under Code sections 4301(o)
28 and 4113, for her involvement in failing to designate a Pharmacist-in-Charge within 30 days

1 following the disassociation of Respondent Schultz on or about March 5, 2018. Complainant
2 refers to, and by this reference incorporates, the allegations contained in paragraphs 15 through
3 23, as though set forth fully herein.

4 **CAUSES FOR DISCIPLINE AS TO RESPONDENT SCHULTZ ONLY:**

5 **FIFTEENTH CAUSE FOR DISCIPLINE**

6 (Unprofessional Conduct – Procurement of License by Misrepresentation)

7 38. Respondent Schultz is subject to disciplinary action under Code sections 4113,
8 subdivision (c), and 4301, including subdivisions (a) and (o), for his involvement in signing and
9 submitting application and renewal forms to the Board misrepresenting the ownership interests in
10 Respondent Pharmacy. Moreover, under Code section 4113, subdivision (c), and California Code
11 of Regulations, title 16, section 1708.2, Respondent Schultz was responsible for timely notifying
12 the Board that Respondent Pharmacy had discontinued to operate as a pharmacy when it sold its
13 prescription files and inventory to another pharmacy in June of 2017. Respondent Schultz failed
14 to timely notify the Board about the sale and instead subsequently signed and submitted a 2018
15 license renewal form to the Board which was approved. Additionally, Respondent Schultz signed
16 and submitted a 2019 license renewal form as Respondent Pharmacy’s pharmacist-in-charge
17 despite having been disassociated and having previously signed the DOB form. Complainant
18 refers to, and by this reference incorporates, the allegations contained in paragraphs 15 through
19 23, as though set forth fully herein.

20 **SIXTEENTH CAUSE FOR DISCIPLINE**

21 (Unprofessional Conduct – Commission of Dishonest Act)

22 39. Respondent Schultz is subject to disciplinary action under Code section 4301,
23 subdivision (f), for committing a dishonest act by having knowledge of Respondent Pharmacy’s
24 sale of prescription files and inventory to another pharmacy in June of 2017 and subsequently
25 signing and submitting a 2018 and 2019 license renewal form to the Board. Complainant refers
26 to, and by this reference incorporates, the allegations contained in paragraphs 15 through 23, as
27 though set forth fully herein.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SEVENTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Failure to Notify the Board Prior to Sale of Drugs)

40. Respondent Schultz is subject to disciplinary action under Code sections 4113, subdivision (c), and 4301, subdivision (o), in conjunction with California Code of Regulations, title 16, section 1708.2, for his involvement as the pharmacist-in-charge in Respondent Pharmacy’s failure to contact the Board prior to transferring or selling any dangerous drugs, devices or hypodermics inventory as a result of termination of business. Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 15 through 23, as though set forth fully herein.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Failure to Report Correct Names of Owners and Officers)

41. Respondent Schultz is subject to disciplinary action under Code sections 4113, subdivision (c), and 4301, subdivision (o), in conjunction with California Code of Regulations, title 16, section 1709, subdivisions (a), for his involvement as the pharmacist-in-charge in Respondent Pharmacy’s failure to report on its application and annual renewal forms the correct names of all owners and corporate officers and for Respondent Pharmacy’s failure to notify the Board within the 30 days of any changes to the owners and corporate officers. Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 15 through 23, as though set forth fully herein.

NINETEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Operating Without Submitting Application for Change in Ownership)

42. Respondent Schultz is subject to disciplinary action under Code sections 4113, subdivision (c), and 4301(o), in conjunction with California Code of Regulations, title 16, section 1709, subdivisions (c), for his involvement as the pharmacist-in-charge in Respondent Pharmacy’s continued operation without submitting an application for change in ownership. Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 15 through 23, as though set forth fully herein.

///

OTHER MATTERS

1
2 43. Pursuant to Code section 4307, if discipline is imposed on Original Permit Number
3 PHY 50257 issued to Respondent Pharmacy, shall be prohibited from servicing as a manager,
4 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
5 Original Permit Number PHY 50257 is placed on probation or until Original Permit Number
6 PHY 50257 is reinstated if the license is revoked.

7 44. Pursuant to Code section 4307, if discipline is imposed on Original Permit Number
8 PHY 50257 issued to Respondent Pharmacy, while Nazik Nancy Simonian was an officer or
9 owner and had knowledge of, or knowingly participated in, any conduct for which Respondent
10 Pharmacy was disciplined, Nazik Nancy Simonian shall be prohibited from serving as a manager,
11 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
12 Original Permit Number PHY 50257 is placed on probation or until Original Permit Number
13 PHY 50257 is reinstated if the license is revoked.

14 45. Pursuant to Code section 4307, if discipline is imposed on Original Pharmacy
15 Technician License Number TCH 44566 issued to Respondent Simonian, Respondent Simonian
16 shall be prohibited from servicing as a manager, administrator, owner, member, officer, director,
17 associate, or partner of a licensee for five years if Original Pharmacy Technician License Number
18 TCH 44566 is placed on probation or until Original Pharmacy Technician License Number TCH
19 44566 is reinstated if the license is revoked.

20 46. Pursuant to Code section 4307, if discipline is imposed on Original Pharmacist
21 License Number RPH 20459 issued to Respondent Schultz, Respondent Schultz shall be
22 prohibited from servicing as a manager, administrator, owner, member, officer, director,
23 associate, or partner of a licensee for five years if Original Pharmacist License Number RPH
24 20459 is placed on probation or until Original Pharmacist License Number RPH 20459 is
25 reinstated if the license is revoked.

26 ///

27 ///

28 ///

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 Pharmacy Permit Number PHY 50257, issued to E R Pharmacy RX Inc. dba E R Pharmacy Rx;
2. Revoking or suspending Pharmacy Technician License Number TCH 44566, issued to Nazik Nancy Simonian;
3. Revoking or suspending Pharmacist License Number RPH 20459, issued to Howard Schultz;
4. Prohibiting E R Pharmacy RX Inc. dba E R Pharmacy Rx from serving as manager, administrator, owner, member, director, officer, associate, or partner of a licensee for five years if Original Permit Number PHY 50257 is placed on probation or until Original Permit Number PHY 50257 is reinstated if Original Permit Number PHY 50257 issued to E R Pharmacy RX Inc. dba E R Pharmacy Rx is revoked;
5. Prohibiting Nazik Nancy Simonian from serving as manager, administrator, owner, member, director, officer, associate, or partner of a licensee for five years if Original Permit Number PHY 48593 and/or Original Pharmacy Technician License Number TCH 44566 are placed on probation or until Original Permit Number PHY 50257 and/or Original Pharmacy Technician License Number TCH 44566 are reinstated following revocation;
6. Prohibiting Howard Schultz from serving as manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Original Pharmacist License Number RPH 20459 is placed on probation or until Original Pharmacist License Number RPH 20459 is reinstated if Original Pharmacist License Number RPH 20459 issued to Howard Schultz is revoked;
7. Ordering E R Pharmacy RX Inc. dba E R Pharmacy Rx, Nazik Nancy Simonian and Howard Schultz to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

8. Taking such other and further action as deemed necessary and proper.

DATED: 8/5/2020

Anne Sodergren

ANNE SODERGRÉN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

LA2019504777
14268369_4.docx