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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROUZBEH JAVAHERIAN,
aka "RJ,"

Defendant.

No. CR

CR 15 00045

I N F O R M A T I O N

[18 U.S.C. § 1347; Health Care
Fraud; 18 U.S.C. § 2(b): Causing
an Act to be Done]

The United States Attorney charges:

[18 U.S.C. §§ 1347, 2(b)]

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this Information:

1. Emoonah, Inc., d/b/a Westaid Pharmacy and Medical
Supply ("Westaid") was a pharmacy located at 1015 S. Fairfax
Avenue, Los Angeles, California 90019.

2. Defendant ROUZBEH JAVAHERIAN, also known as ("aka")
"RJ" ("JAVAHERIAN"), was a resident of Los Angeles County and
the sole owner of Westaid. Defendant JAVAHERIAN was a
pharmacist licensed with the State of California.

1 3. CCI was a Medicare beneficiary and a Westaid customer.

2 The Medicare Program

3 4. Medicare was a federal health care benefit program,
4 affecting commerce, that provided benefits to individuals who
5 were 65 years and older or disabled. Medicare was administered
6 by the Centers for Medicare and Medicaid Services ("CMS"), a
7 federal agency under the United States Department of Health and
8 Human Services.

9 5. Individuals who qualified for Medicare benefits were
10 referred to as Medicare "beneficiaries." Each beneficiary was
11 given a unique health insurance claim number ("HICN").

12 6. Medicare programs covering different types of benefits
13 were separated into different program "parts." Part D of
14 Medicare (the "Medicare Part D Program") subsidized the costs of
15 prescription drugs for Medicare beneficiaries in the United
16 States. The Medicare Part D Program was enacted as part of the
17 Medicare Prescription Drug, Improvement, and Modernization Act
18 of 2003 and went into effect on January 1, 2006.

19 7. In order to receive Part D benefits, a beneficiary
20 enrolled in a Medicare drug plan. Medicare drug plans were
21 operated by private companies approved by Medicare. Those
22 companies were often referred to as drug plan "sponsors." A
23 beneficiary in a Medicare drug plan could fill a prescription at
24 a pharmacy and use his or her plan to pay for some or all of the
25 prescription.

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1 8. A pharmacy could participate in Part D by entering
2 into a retail network agreement directly with a plan, with one
3 or more Pharmacy Benefit Managers ("PBMs"), or with a Pharmacy
4 Services Administration Organization ("PSAO"), which would, in
5 turn, contract with PBMs on behalf of the pharmacy. A PBM acted
6 on behalf of one or more drug plans. Through a plan's PBM, a
7 pharmacy could join the plan's network. When a Part D
8 beneficiary presented a prescription to a pharmacy, the pharmacy
9 submitted a claim either directly to the plan or to a PBM that
10 represented the beneficiary's Medicare drug plan. The plan or
11 PBM determined whether the pharmacy was entitled to payment for
12 each claim and periodically paid the pharmacy for outstanding
13 claims. The drug plan's sponsor reimbursed the PBM for its
14 payments to the pharmacy.

15 9. A pharmacy could also submit claims to a Medicare drug
16 plan to whose network the pharmacy did not belong. Submission
17 of such out-of-network claims was not common and often resulted
18 in smaller payments to the pharmacy by the drug plan sponsor.

19 10. Medicare, through CMS, compensated the Medicare drug
20 plan sponsors. Medicare paid the sponsors a monthly fee for
21 each Medicare beneficiary of the sponsors' plans. Such payments
22 were called capitation fees. The capitation fee was adjusted
23 periodically based on various factors, including the
24 beneficiary's medical conditions. In addition, in some cases
25 where a sponsor's expenses for a beneficiary's prescription
26 drugs exceeded that beneficiary's capitation fee, Medicare
27 reimbursed the sponsor for a portion of those additional
28 expenses.

1 11. Medicare and Medicare drug plan sponsors were health
2 care benefit programs, as defined by Title 18, United States
3 Code, Section 24(b).

4 B. THE SCHEME TO DEFRAUD

5 12. Beginning in or around January 2008, and continuing
6 through in or around November 2014, in Los Angeles County,
7 within the Central District of California, and elsewhere,
8 defendant JAVAHERIAN, together with others known and unknown to
9 the United States Attorney, knowingly, willfully, and with
10 intent to defraud, executed, and attempted to execute, a scheme
11 and artifice: (a) to defraud a health care benefit program,
12 namely, Medicare and Medicare drug plan sponsors, as to material
13 matters in connection with the delivery of and payment for
14 health care benefits, items, and services; and (b) to obtain
15 money from Medicare and Medicare drug plan sponsors by means of
16 materially false and fraudulent pretenses and representations
17 and the concealment of material facts in connection with the
18 delivery of and payment for health care benefits, items, and
19 services.

20 C. MEANS TO ACCOMPLISH THE SCHEME TO DEFRAUD

21 13. The fraudulent scheme operated, in substance, as
22 follows:

23 a. Medicare beneficiaries, including CC1, would
24 visit Westaid for the purpose of filling drug prescriptions.
25 Defendant JAVAHERIAN would pay Medicare beneficiaries, including
26 CC1, illegal cash kickbacks in exchange for the Medicare
27 beneficiaries providing drug prescriptions to defendant
28 JAVAHERIAN.

1 b. For those prescriptions that defendant JAVAHERIAN
2 received from the Medicare beneficiaries, including CCI,
3 defendant JAVAHERIAN would provide some, but not all, of the
4 drugs to the Medicare beneficiaries.

5 c. Defendant JAVAHERIAN would submit false and
6 fraudulent claims to Medicare drug plan sponsors for the drugs
7 that defendant JAVAHERIAN did not actually provide to the
8 Medicare beneficiaries, including CCI.

9 d. As a result of such false and fraudulent claims,
10 Medicare prescription drug plan sponsors made payments funded by
11 Medicare to Westaid's corporate bank account.

12 14. From January 2008 to November 2014, Medicare and
13 Medicare drug plan sponsors paid Westaid approximately
14 \$23,935,107. Of these payments to Westaid, Medicare and
15 Medicare drug plan sponsors made overpayments to Westaid's
16 corporate bank accounts in the amount of at least \$644,060, due
17 to the fraudulent scheme.

18 D. THE EXECUTION OF THE FRAUDULENT SCHEME

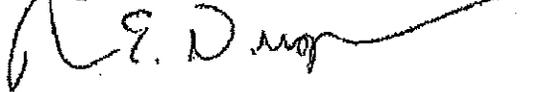
19 15. On or about the date set forth below, within the
20 Central District of California, and elsewhere, defendant
21 JAVAHERIAN, together with others known and unknown to the Grand
22 Jury, for the purpose of executing and attempting to execute the
23 fraudulent scheme described above, knowingly and willfully
24 submitted and caused to be submitted to Medicare drug plan
25 sponsors for payment the following false and fraudulent claim
26 seeking the identified dollar amount, and representing that
27 Westaid provided the listed pharmaceutical item to CCI:

28

COUNT	CLAIM NUMBER	APPROX. DATE SUBMITTED	MEDICARE DRUG PLAN SPONSOR	ITEM CLAIMED; APPROX. AMOUNT OF CLAIM
ONE	1414763437411 059989110	6/27/14	Silverscript Insurance Company	Advair Diskus; \$290.91

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STEPHANIE YONEKURA
Acting United States Attorney



ROBERT E. DUGDALE
Assistant United States Attorney
Chief, Criminal Division

RICHARD E. ROBINSON
Assistant United States Attorney
Chief, Major Frauds Section

CONSUELO WOODHEAD
Assistant United States Attorney
Deputy Chief, Major Frauds Section

GEJAA GOBENA
Deputy Chief, Fraud Section
U.S. Department of Justice

BEN CURTIS
Assistant Chief, Fraud Section
U.S. Department of Justice

ALEXANDER F. PORTER
Trial Attorney, Fraud Section
U.S. Department of Justice

**United States District Court
Central District of California**

UNITED STATES OF AMERICA vs.

Docket No. 2:15-cr-00045-SVW

Defendant Rouzbah Javaherian

Social Security No. 9 9 4 1

akas: "RJ"

(Last 4 digits)

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared in person on this date.

MONTH	DAY	YEAR
08	03	2015

COUNSEL

Vicki I. Poberesky/Michael D. Nasatir

(Name of Counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea. **NOLO** **NOT**
CONTENDERE **GUILTY**

FINDING

There being a finding/verdict of **GUILTY**, defendant has been convicted as charged of the offense(s) of:
Health Care Fraud, Causing an Act to be Done in violation of 18 U.S.C. §§ 1347, 2(b) as charged in the Single-Count Information

**JUDGMENT
AND PROB/
COMM
ORDER**

The Court asked whether there was any reason why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of:

EIGHTEEN (18) MONTHS

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of one year under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the United States Probation Office, General Order 05-02, and General Order 01-05, including the three special conditions delineated in General Order 01-05.
2. The defendant shall not engage, as whole or partial owner, employee or otherwise, in any business involving Medicare, without the express written approval of the Probation Officer prior to engaging in such employment. Further, the defendant shall provide the Probation Officer with access to any and all business records, client lists, and other records pertaining to the operation of any business owned, in whole or in part, by the defendant, as directed by the Probation Officer.
3. The defendant shall not be employed in any position that requires licensing and/or certification by any local, state, or federal agency without the prior written approval of the Probation Officer.
4. The defendant shall cooperate in the collection of a DNA sample from the defendant.

The drug testing condition mandated by statute is suspended based on the Court's determination that the defendant poses a low risk of future substance abuse.

It is ordered that the defendant shall pay to the United States a special assessment of \$100, which is due immediately.

It is ordered that the defendant shall pay restitution in the total amount of \$644,060 pursuant to 18 U.S.C. § 3663A.

The Court recommends to the Bureau of Prisons that the defendant be designated to a facility in Lompoc, California.

USA vs. Rouzbeh JavaherianDocket No.: 2:15-cr-00045-SVW

It is further ordered that the defendant surrender himself/herself to the institution designated by the Bureau of Prisons on or before 12 noon, October 30, 2015. In the absence of such designation, the defendant shall report on or before the same date and time, to the United States Marshal located at:

Roybal Federal Building
255 East Temple Street
Los Angeles, California 90012

The bond is exonerated upon self-surrender.

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

August 4, 2015

Date


STEPHEN V. WILSON, U. S. District Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

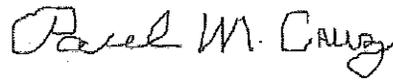


August 4, 2015

Filed Date

Clerk, U.S. District Court

By


Paul M. Cruz, Deputy Clerk

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant shall not commit another Federal, state or local crime;
2. the defendant shall not leave the judicial district without the written permission of the court or probation officer;
3. the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
4. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
5. the defendant shall support his or her dependents and meet other family responsibilities;
6. the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
7. the defendant shall notify the probation officer at least 10 days prior to any change in residence or employment;
8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered;
10. the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
11. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
12. the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
13. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
14. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to conform the defendant's compliance with such notification requirement;
15. the defendant shall, upon release from any period of custody, report to the probation officer within 72 hours;
16. and, for felony cases only: not possess a firearm, destructive device, or any other dangerous weapon.

USA vs. Rouzbeh Javaherian

Docket No.: 2:15-cr-00045-SVW

The defendant will also comply with the following special conditions pursuant to General Order 01-05 (set forth below).

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant shall pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment pursuant to 18 U.S.C. §3612(f)(1). Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed prior to April 24, 1996.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant shall pay the balance as directed by the United States Attorney's Office. 18 U.S.C. §3613.

The defendant shall notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. §3612(b)(1)(F).

The defendant shall notify the Court through the Probation Office, and notify the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. §3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution-pursuant to 18 U.S.C. §3664(k). See also 18 U.S.C. §3572(d)(3) and for probation 18 U.S.C. §3563(a)(7).

Payments shall be applied in the following order:

1. Special assessments pursuant to 18 U.S.C. §3013;
2. Restitution, in this sequence:
 - Private victims (individual and corporate),
 - Providers of compensation to private victims,
 - The United States as victim;
3. Fine;
4. Community restitution, pursuant to 18 U.S.C. §3663(c); and
5. Other penalties and costs.

SPECIAL CONDITIONS FOR PROBATION AND SUPERVISED RELEASE

As directed by the Probation Officer, the defendant shall provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure; and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant shall not apply for any loan or open any line of credit without prior approval of the Probation Officer.

The defendant shall maintain one personal checking account. All of defendant's income, "monetary gains," or other pecuniary proceeds shall be deposited into this account, which shall be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, shall be disclosed to the Probation Officer upon request.

The defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on _____ to _____

Defendant noted on appeal on _____

Defendant released on _____

Mandate issued on _____

Defendant's appeal determined on _____

USA vs. Rouzbeh Javaherian Docket No.: 2:15-cr-00045-SVW

Defendant delivered on _____ to _____
at _____
the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

By _____
Date _____ Deputy Marshal

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

By _____
Filed Date _____ Deputy Clerk

FOR U.S. PROBATION OFFICE USE ONLY

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____
Defendant Date

U. S. Probation Officer/Designated Witness Date

WESTERN,CLOSED,RETPASPRT

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA (Western Division - Los Angeles)
CRIMINAL DOCKET FOR CASE #: 2:15-cr-00045-SVW-1**

Case title: USA v. Javaherian

Date Filed: 01/29/2015

Date Terminated: 08/04/2015

Assigned to: Judge Stephen V. Wilson

Defendant (1)**Rouzbah Javaherian***TERMINATED: 08/04/2015**also known as*

RJ

*TERMINATED: 08/04/2015*represented by **Michael D Nasatir**

Andruess/Podberesky APLC

818 W. 7th Street

Suite 960

Los Angeles, CA 90017

(213) 395-0400

Fax: (213) 395-0401

Email: mnasatir@aplav.law**LEAD ATTORNEY****ATTORNEY TO BE NOTICED***Designation: Retained***Vicki I Podberesky**

Andruess Podberesky

818 West 7th Street Suite 960

Los Angeles, CA 90017

213-395-0400

Fax: 213-395-0401

Email: vpod@aplav.law**ATTORNEY TO BE NOTICED****Pending Counts**

18:1347, 2(b) HEALTH CARE
FRAUD, CAUSING AN ACT TO BE
DONE
(1)

Disposition

Imprisonment for EIGHTEEN (18)
months on count One (1). One year
Supervised Release imposed on count
One (1). Make \$644,060.00 Restitution.
Pay \$100 special assessment.

Highest Offense Level (Opening)

Felony

Terminated Counts**Disposition**

None

Highest Offense Level (Terminated)

None

Complaints

None

Disposition

Plaintiff

USA

represented by **Alexander F Porter**
 AUSA - Office of US Attorney
 Criminal Division - Major Frauds
 312 North Spring Street 11th Floor
 Los Angeles, CA 90012
 213-894-0813
 Fax: 213-894-6269
 Email: alexander.porter2@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Assistant US Attorney

Date Filed	#	Docket Text
01/29/2015	<u>1</u>	INFORMATION filed as to Rouzbeh Javaherian (1) count(s) 1. Offense occurred in LA. (ja) (Entered: 02/03/2015)
01/29/2015	<u>5</u>	CASE SUMMARY filed by AUSA Alexander F Porter as to Defendant Rouzbeh Javaherian; defendant's Year of Birth: 1980 (ja) (Entered: 02/03/2015)
01/29/2015	<u>6</u>	MEMORANDUM filed by Plaintiff USA as to Defendant Rouzbeh Javaherian in regards to the following Magistrate Judges: Jacqueline Chooljian, Patrick J. Walsh, Sheri Pym, Michael Wilner, Alka Sagar, Jean Rosenbluth, Douglas McCormick (ja) (Entered: 02/03/2015)
01/29/2015	<u>7</u>	MEMORANDUM filed by Plaintiff USA as to Defendant Rouzbeh Javaherian. This criminal action, being filed on 1/29/15, was pending in the U. S. Attorneys Office before the date on which Judge Andre Birotte Jr began receiving criminal matters, it was not pending in the U. S. Attorneys Office before the date on which Judge Michael W. Fitzgerald began receiving criminal matters (ja) (Entered: 02/03/2015)
01/29/2015	<u>8</u>	PLEA AGREEMENT filed by Plaintiff USA as to Defendant Rouzbeh Javaherian (ja) (Entered: 02/03/2015)
02/02/2015	<u>9</u>	Summons Returned Executed on 2/2/15 as to Rouzbeh Javaherian (mhe) (Entered: 02/04/2015)
02/03/2015	<u>10</u>	

		MINUTES OF INFORMATION HEARING held before Magistrate Judge Alka Sagar as to Defendant Rouzbeh Javaherian. Defendant states true name as charged. Court orders bail set as: Rouzbeh Javaherian (1) \$75,000 Appearance Bond, see attached bond for terms and conditions. Defendant Ordered to report to USM for processing. PIA held, see separate minutes. Court Reporter: Miranda Algorri. (mhe) (Entered: 02/06/2015)
02/03/2015	<u>11</u>	STATEMENT OF CONSTITUTIONAL RIGHTS filed by Defendant Rouzbeh Javaherian (mhe) (Entered: 02/06/2015)
02/03/2015	<u>12</u>	DESIGNATION AND APPEARANCE OF COUNSEL; filed by Michael D Nasatir appearing for Rouzbeh Javaherian (mhe) (Entered: 02/06/2015)
02/03/2015	<u>13</u>	WAIVER OF INDICTMENT by Defendant Rouzbeh Javaherian before Magistrate Judge Alka Sagar (mhe) (Entered: 02/06/2015)
02/03/2015	<u>14</u>	MINUTES OF POST-INDICTMENT ARRAIGNMENT: held before Magistrate Judge Alka Sagar as to Defendant Rouzbeh Javaherian (1) Count 1. Defendant arraigned, states true name: As charged. Attorney: Michael D. Nasatir, Retained present. Case assigned to Judge Steven V. Wilson. Counsel are ordered to contact the court clerk regarding the setting of dates for the guilty plea and all further proceedings. Court Reporter: Miranda Algorri. (tba) (Entered: 02/09/2015)
02/03/2015	<u>23</u>	REDACTED AFFIDAVIT OF SURETIES (No Justification - Pursuant to Local Criminal Rule 46-5.2.8) in the amount of \$75,000 by surety: Jessica Javahenian for Bond and Conditions (CR-1) <u>20</u> . Filed by Defendant Rouzbeh Javaherian (mhe) (Entered: 04/17/2015)
02/03/2015	<u>24</u>	UNREDACTED Affidavit of Surety (No Justification) filed by Defendant Rouzbeh Javaherian re: Affidavit of Surety (No Justification)(CR-4) <u>23</u> (mhe) (Entered: 04/17/2015)
02/11/2015	<u>15</u>	SCHEDULING NOTICE by Judge Stephen V. Wilson as to Defendant Rouzbeh Javaherian: The matter is set for a Plea Hearing on 3/16/2015 at 11:00 AM. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY.(pc) TEXT ONLY ENTRY (Entered: 02/11/2015)
03/03/2015	<u>16</u>	EX PARTE APPLICATION to Continue DATE TO SURRENDER PASSPORT from March 3, 2015 to April 3, 2015. Filed by Defendant Rouzbeh Javaherian. (Attachments: # <u>1</u> Proposed Order) (Nasatir, Michael) (Entered: 03/03/2015)
03/04/2015	<u>17</u>	ORDER RE SURRENDER DATE FOR PASSPORT <u>16</u> by Judge Stephen V. Wilson. IT IS HEREBY ORDERED, That the date by which Mr Javaherian is to surrender his passport to the Clerk of the Court be continued from March 3, 2015 to April 3, 2015. (es) (Entered: 03/05/2015)
03/16/2015	<u>18</u>	MINUTES OF ARRAIGNMENT & PLEA held before Judge Stephen V. Wilson as to Defendant Rouzbeh Javaherian. Defendant states true name is as charged. Court questions defendant regarding his physical and mental condition, and advises defendant of the nature and possible consequences of said plea. Defendant sworn. Defendant enters plea of Guilty to Count 1 of the Information.

		The Court refers the defendant to the Probation Office for investigation and report and the matter is continued to June 1, 2015 at 11:00 a.m. for sentencing. Court Reporter: Deborah Gackle. (es) (Entered: 03/17/2015)
04/03/2015	<u>19</u>	PASSPORT RECEIPT from U. S. Pretrial Services as to Defendant Rouzbeh Javaherian. USA passport was received on 4/3/15. (mhe) (Entered: 04/10/2015)
04/03/2015	<u>20</u>	BOND AND CONDITIONS OF RELEASE filed as to Defendant Rouzbeh Javaherian conditions of release: \$75,000 Appearance Bond, see attached bond for terms and conditions approved by Magistrate Judge John E. McDermott. (mhe) (Entered: 04/14/2015)
05/07/2015	<u>25</u>	EX PARTE APPLICATION to Continue Sentencing from June 1, 2015 to August 3, 2015. Filed by Defendant Rouzbeh Javaherian. (Attachments: # <u>1</u> Proposed Order) (Podberesky, Vicki) (Entered: 05/07/2015)
05/12/2015	<u>26</u>	ORDER by Judge Stephen V. Wilson GRANTING <u>25</u> Ex Parte Application to Continue the sentencing date from June 1, 2015 at 11:00 a.m. to August 3, 2015 at 11:00 a.m. as to Rouzbeh Javaherian (1) (es) (Entered: 05/13/2015)
07/21/2015	<u>27</u>	SENTENCING MEMORANDUM filed by Plaintiff USA as to Defendant Rouzbeh Javaherian (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit 1)(Porter, Alexander) (Entered: 07/21/2015)
07/22/2015	<u>28</u>	NOTICE of Manual Filing filed by Defendant Rouzbeh Javaherian (Podberesky, Vicki) (Entered: 07/22/2015)
07/24/2015	<u>30</u>	SEALED DOCUMENT - APPLICATION for Authorization to File Rouzbeh Javaherian's Sentencing Memorandum Under Seal. (gk) (Entered: 07/29/2015)
07/24/2015	<u>31</u>	SEALED DOCUMENT - ORDER PERMITTING ROUZBEH JAVAHERIAN'S SENTENCING POSITION TO BEFILED UNDER SEAL. (gk) (Entered: 07/29/2015)
07/24/2015	<u>32</u>	SEALED DOCUMENT - DEFENDANT'S SENTENCING MEMORANDUM; Exhibits. (Attachments: # <u>1</u> Part 2)(gk) (Entered: 07/29/2015)
08/03/2015	<u>33</u>	MINUTES OF SENTENCING Hearing held before Judge Stephen V. Wilson as to Defendant Rouzbeh Javaherian. Defendant Rouzbeh Javaherian (1), is sentenced as follows: Imprisonment for EIGHTEEN (18) months on count One (1). One year Supervised Release imposed on count One (1). Make \$644,060.00 Restitution. Pay \$100 special assessment. Bond exonerated upon surrender. Defendant to surrender not later than 10/30/2015. Court Reporter: Deborah Gackle. (es) (Entered: 08/05/2015)
08/04/2015	<u>34</u>	JUDGMENT AND COMMITMENT by Judge Stephen V. Wilson as to Defendant Rouzbeh Javaherian (1), Count(s) 1, Imprisonment for EIGHTEEN (18) months on count One (1). One year Supervised Release imposed on count One (1). Make \$644,060.00 Restitution. Pay \$100 special assessment. Defendant to surrender on or before 12 noon 10/30/2015. Bond is exonerated upon surrender. (pj) (Entered: 08/06/2015)
08/11/2015	<u>36</u>	EX PARTE APPLICATION to Judgment and Commitment, <u>34</u> Filed by Defendant Rouzbeh Javaherian. (Attachments: # <u>1</u> Proposed Order) (Attorney

		Vicki I Podberesky added to party Rouzbeh Javaherian(pty:dft)) (Podberesky, Vicki) (Entered: 08/11/2015)
08/13/2015	<u>37</u>	ORDER TO AMEND JUDGMENT AND COMMITMENT ORDER TO RECOMMEND PLACEMENT AT CI TAFT <u>36</u> by Judge Stephen V. Wilson. IT IS HEREBY ORDERED That the Judgment and Commitment Order entered on August 4, 2015 be amended to reflect that the Court is recommending that the Bureau of Prisons house Mr. Javaherian at CI Taft. (es) (Entered: 08/14/2015)
09/21/2015	<u>38</u>	EX PARTE APPLICATION for Order for <i>Return of Passport</i> Filed by Defendant Rouzbeh Javaherian. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Proposed Order) (Podberesky, Vicki) (Entered: 09/21/2015)
09/22/2015	<u>39</u>	ORDER FOR RETURN OF PASSPORT by Judge Stephen V. Wilson as to Defendant Rouzbeh Javaherian. Upon Defendant's Ex Parte Application <u>38</u> , IT IS HEREBY ORDERED that the Clerk of the Court and Pretrial Services return the passport of defendant Rouzbeh Javaherian. (gk) (Entered: 09/23/2015)
11/24/2015	<u>40</u>	VERIFICATION OF SURRENDER as to Rouzbeh Javaherian. The defendant was ordered to self-surrender to begin serving their sentence of imprisonment on 10/30/2015. The bond may be exonerated pending the verification as to whether the defendant is being electronically monitored by the U.S. Probation Office; confined to the custody of the Bureau of Prisons; or completed their jail time. As of 11/24/2015, it was verified the defendant TAFT: (pj) (Entered: 11/24/2015)
02/05/2016	<u>41</u>	STIPULATION for Order that Restitution in this matter has been paid in full and satisfied. filed by Defendant Rouzbeh Javaherian (Attachments: # <u>1</u> Proposed Order)(Nasatir, Michael) (Entered: 02/05/2016)
02/10/2016	<u>42</u>	ORDER by Judge Stephen V. Wilson as to Defendant Rouzbeh Javaherian, re Stipulation for Order that Restitution in this matter has been paid in full and satisfied <u>41</u> . IT IS ORDERED that restitution in this matter has been paid in full and satisfied. (shb) (Entered: 02/10/2016)
05/09/2017	<u>44</u>	NOTICE of Change of Attorney Business or Contact Information: for attorney Vicki I Podberesky counsel for defendant Rouzbeh Javaherian. Changing Firm Name and Change of Address to Andruess/Podberesky, 818 W. 7th Street, Suite 960, Los Angeles, CA 90017 (213) 395-0400. Changing Email and fax number to vpod@aplaw.law; fax number (213) 395-0401. Filed by defendant Rouzbeh Javaherian (Podberesky, Vicki) (Entered: 05/09/2017)

PACER Service Center			
Transaction Receipt			
04/30/2018 17:21:13			
PACER Login:	Odlegal94612:2536794:0	Client Code:	
Description:	Docket Report	Search Criteria:	2:15-cr-00045-SVW End date: 4/30/2018

Billable Pages:	4	Cost:	0.40
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JENNIFER KENT
DIRECTOR

State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
GOVERNOR

MAR 19 2015

Rouzbeh Javaherian
Westaid Pharmacy and Medical Supply
6230 Wilshire Boulevard, Suite 1164
Los Angeles, CA 90048

**Re: Westaid Pharmacy and Medical Supply, License No. 48785
Rouzbeh Javaherian, Owner
Pharmacist, License No. 55801**

Dear Dr. Javaherian:

The Director of the State Department of Health Care Services (Department) has been notified of the conviction in the United States District Court, Central District of California (*U.S. v. Rouzbeh Javaherian*, No. 15-CR-00045) for violation of 18 United States Code sections 1347 and 2(b). This are convictions involving fraud and have been determined by the Department to be substantially related to the qualifications, functions, or duties of a provider of service. You are on record as being an owner of Westaid Pharmacy and Medical Supply (Westaid Pharmacy). As a provider of health care services, you and Westaid Pharmacy were granted certain permissions to participate in the Medi-Cal program by operation of law with or without applying for enrollment. Pursuant to Welfare and Institutions Code section 14123, subdivision (a), the Director is required to automatically suspend these permissions, meaning that you are precluded from being eligible to receive payment from the Medi-Cal program directly or indirectly. This requirement applies to anyone who provides health services whenever that person is convicted of any felony or any misdemeanor involving fraud, abuse of the Medi-Cal program or any patient, or otherwise substantially related to the qualifications, functions, or duties of a provider of service. If the provider of service is a clinic, group, corporation, or other association, conviction of any officer, director, or shareholder in that organization of such a crime shall result in the suspension of that organization and the individual convicted if the director believes that suspension would be in the best interest of the Medi-Cal program. (See 42 C.F.R. § 1001.101(a) & (c) & 1001.901; Welf. & Inst. Code, § 14123.25.)

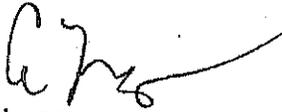
Therefore, on behalf of the Director of the Department, Rouzbeh Javaherian and Westaid Pharmacy are hereby prohibited from being able to receive payment from the Medi-Cal program for an indefinite period of time, effective twenty days (15 days'

MAR 19 2015

statutory notice, plus 5 days for mailing) from the date of this letter. Your name will be posted on the "Medi-Cal Suspended and Ineligible Provider List," available on the Internet. During the period of suspension, no person or entity, including an employer, can submit any claims to the Medi-Cal program for items or services rendered by Rouzbeh Javaherian and Westaid Pharmacy. If you are currently enrolled in Medi-Cal, that enrollment will be terminated. Any involvement by Rouzbeh Javaherian or Westaid Pharmacy directly or indirectly will result in nonpayment of the claim(s) submitted. Any person who presents or causes to be presented a claim for equipment or services rendered by a person or entity suspended from participation in the Medi-Cal program shall be subject to suspension from receiving payment, the assessment of civil money penalties, and/or criminal prosecution. (See Welf. & Inst. Code, §§ 14043.61, 14107, 14123.2; Cal. Code of Regs., tit. 22, §§ 51458.1, 51484, and 51485.1). The Department will seek recoupment of any monies paid for claims presented to the Medi-Cal program for services or supplies rendered by Rouzbeh Javaherian or Westaid Pharmacy during the period of suspension.

If you have any questions about this action, please submit your concerns, in writing, to Kimberly Woodward, Legal Analyst, at the above address.

Sincerely,



Eric Lazarus
Senior Attorney

cc: See next page.

Susan Capello
Board of Pharmacy
400 R Street, Suite 4070
Sacramento, CA 95814-6237

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Intelligence Analyst, Health Care Fraud
Federal Bureau of Investigations
4500 Orange Grove Avenue
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Debbie Rielley
Criminal Intelligence Specialist III
Criminal Division
Bureau of Medi-Cal Fraud and Elder Abuse
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Ivan Negroni
Special Agent in Charge
Office of Inspector General
Office of Investigations
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Sonia Wegge
Office of Inspector General
Office of Investigations
Department of Health & Human Services
600 City Parkway West, Suite 500
Orange, CA 92868-2946

Rouzbeh Javaherian
Westaid Pharmacy and Medical Supply
1015 South Fairfax Avenue
Los Angeles, CA 90019

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

In the Matter of the Accusation Against:

**EMOONAH, INC., DBA WEST AID
PHARMACY AND MEDICAL SUPPLY;
ROUZBEH JAVAHERIAN,**
1015 S. Fairfax Avenue
Los Angeles, CA 90019

Pharmacy License No. PHY 48785

and

ROUZBEH JAVAHERIAN
6230 Wilshire Blvd, Ste. 1164
Los Angeles, CA 90048

Pharmacist License No. RPH 55801

Respondents.

Case No. 5941

OAH No. 2017080943

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 April 12, 2018.

It is so ORDERED on March 13, 2018.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 XAVIER BECERRA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 CHRISTINE J. LEE
Deputy Attorney General
4 State Bar No. 282502
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6285
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:
11
12 **EMOONAH, INC., DBA WEST AID**
PHARMACY AND MEDICAL SUPPLY;
13 **ROUZBEH JAVAHERIAN**
1015 S. Fairfax Ave.
14 Los Angeles, CA 90019

15 Pharmacy Permit No. PHY 48785

16 and

17 **ROUZBEH JAVAHERIAN**
6230 Wilshire Blvd., Ste. 1164
18 Los Angeles, CA 90048

19 Pharmacist License No. RPH 55801

20 Respondents.

Case No. 5941
OAH No. 2017080943
**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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

23 **PARTIES**

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

28 ///

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

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

7 CULPABILITY

8 9. Respondents admit the truth of each and every charge and allegation in Accusation
9 No. 5941, agrees that cause exists for discipline and hereby surrenders their Pharmacy Permit No.
10 PHY 48785 and Pharmacist License Number RPH 55801 for the Board's formal acceptance.

11 10. Respondent Emoonah Pharmacy understands that by signing this stipulation he
12 enables the Board to issue an order accepting the surrender of his Pharmacy Permit without
13 further process.

14 11. Respondent Jayaherian understands that by signing this stipulation he enables the
15 Board to issue an order accepting the surrender of his Pharmacist License without further process.

16 CONTINGENCY

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

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

1 the board determines whether to grant or deny the application. Respondents shall satisfy all
2 requirements applicable to that license as of the date the application is submitted to the board.
3 Respondents are required to report this surrender as disciplinary action.

4 3. Respondents shall cause to be delivered to the Board the pocket license and, if one
5 was issued, the wall certificate on or before the effective date of the Decision and Order.

6 4. Respondents shall pay the agency its costs of investigation and enforcement in the
7 amount of \$10,637.75 prior to issuance of a new or reinstated license.

8 ACCEPTANCE

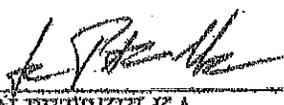
9 I have carefully read the above Stipulated Surrender of License and Order and have fully
10 discussed it with my attorney, Ivan Petrzelka. I understand the stipulation and the effect it will
11 have on the Pharmacy Permit PHY 48785 and Pharmacist License No. PRH 55801. I enter into
12 this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and
13 agree to be bound by the Decision and Order of the Board of Pharmacy.

14
15 DATED: 2/5/18


ROUZBEH JAVAHERIAN, as an individual and
as owner of EMOONAH, INC., DBA WEST AID
PHARMACY AND MEDICAL SUPPLY;
ROUZBEH JAVAHERIAN
Respondents

19 I have read and fully discussed with Respondents Emoonah, Inc., dba West Aid Pharmacy
20 and Medical Supply; Rouzbeh Javaherian and Rouzbeh Javaherian the terms and conditions and
21 other matters contained in this Stipulated Surrender of License and Order. I approve its form and
22 content.

23
24
25 DATED: February 6, 2018


IVAN PETRZELKA
Attorney for Respondent

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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: 2/6/18

Respectfully submitted,

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



CHRISTINE J. LEE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5941

1 XAVIER BECERRA
Attorney General of California
2 LINDA SCHNEIDER
Senior Assistant Attorney General
3 THOMAS L. RINALDI
Supervising Deputy Attorney General
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5 Los Angeles, CA 90013
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6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:

Case No. 5941

11 **EMOONAH, INC., DBA WEST AID**
12 **PHARMACY AND MEDICAL SUPPLY;**
13 **ROUZBEH JAVAHERIAN, OWNER**
1015 S. Fairfax Ave.
14 Los Angeles, CA 90019

A C C U S A T I O N

15 Pharmacy Permit No. PHY 48785,

16 and

17 **ROUZBEH JAVAHERIAN**
6230 Wilshire Blvd., Ste. 1164
18 Los Angeles, CA 90048

19 Pharmacist License No. RPH 55801

20 Respondent.

21
22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about March 27, 2008, the Board of Pharmacy issued Pharmacy Permit Number
27 PHY 48785 to Respondent Emoonah, Inc., dba West Aid Pharmacy and Medical Supply
28 (Respondent West Aid Pharmacy). Respondent Rouzbeh Javaherian was the President, sole

1 owner, and Pharmacist-In-Charge of Respondent West Aid Pharmacy from March 27, 2008, to
2 April 16, 2015. The Pharmacy Permit expired on May 31, 2016, and has not been renewed. The
3 Pharmacy Permit was cancelled on April 16, 2016, due to Discontinuance of Business, effective
4 February 25, 2015.

5 3. On or about June 8, 2004, the Board of Pharmacy issued Pharmacist License Number
6 RPH 55801 to Respondent Rouzbeh Javaherian (Respondent Javaherian). The Pharmacist License
7 expired on May 31, 2016, and has not been renewed.

8 JURISDICTION

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

12 5. Section 4300, subdivision (a), of the Code states that "[e]very license issued may be
13 suspended or revoked."

14 6. Section 4300.1 of the Code states:

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

20 STATUTORY PROVISIONS

21 7. 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 unprofessional
23 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is
24 not limited to, any of the following:

25 ...

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

1 “(g) Knowingly making or signing any certificate or other document that falsely represents
2 the existence or nonexistence of a state of facts.”

3 ...

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

21 ...

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

26 ///

27 ///

28 ///

1 11. California Code of Regulations, title 16, section 1761, subdivision (a) states:

2 "(a) No pharmacist shall compound or dispense any prescription which contains any
3 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any
4 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
5 validate the prescription."

6 12. Code of Federal Regulations, title 21 section 1304.11, subdivision (c) states:

7 "(c) Biennial inventory date. After the initial inventory is taken, the registrant shall take a
8 new inventory of all stocks of controlled substances on hand at least every two years. The biennial
9 inventory may be taken on any date which is within two years of the previous biennial inventory
10 date."

11 **COST RECOVERY**

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

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Conviction of a Substantially Related Crime)**

20 14. Respondent West Aid Pharmacy and Respondent Javaherian are subject to
21 disciplinary action under sections 4300, 4301, subdivisions (l) and (o), and 4302, of the Code, in
22 conjunction with California Code of Regulations, title 16, section 1770, on the grounds of
23 unprofessional conduct, in that Respondent Javaherian committed a substantially related crime, as
24 follows:

25 a. On or about August 3, 2015, after pleading guilty, Respondent Javaherian was
26 convicted of one felony count of healthcare fraud, in violation of Title 18, United States Code,
27 Sections 1347 and 2(b) [causing an act to be done], in the criminal proceeding entitled *United*
28 *States of America v. Rouzbeh Javaherian* (United States District Court for the Central District of

1 California, 2015, No. CR 15 00045). The Court sentenced Respondent Javaherian to 18 months in
2 jail, placed him on supervised release for a term of one year, and ordered him to pay \$644,060.00
3 in restitution.

4 b. The circumstances underlying the conviction are that from approximately January
5 2008 to November 2014, Respondent Javaherian, while serving as the pharmacist-in-charge of
6 Respondent West Aid Pharmacy, admittedly defrauded Medicare and Medicare drug plan
7 sponsors by paying illegal cash kickbacks to at least 15 Medicare beneficiaries in exchange for
8 their drug prescriptions to be submitted to Respondent West Aid Pharmacy. Respondent
9 Javaherian also submitted false and fraudulent claims to Medicare drug plan sponsors for
10 reimbursement for drugs that he never provided to Medicare beneficiaries. Respondents received
11 approximately \$644,060 in overpayments from Medicare as the result of the fraud scheme.

12 **SECOND CAUSE FOR DISCIPLINE**

13 (Dishonesty, Fraud, or Deceit)

14 15. Respondent West Aid Pharmacy and Respondent Javaherian are subject to
15 disciplinary action under sections 4301, subsection (f), and 4302 of the Code, in that they
16 committed acts of dishonesty, fraud, or deceit by admittedly defrauding Medicare and Medicare
17 drug plan sponsors by paying illegal cash kickbacks to Medicare beneficiaries and submitting
18 false and fraudulent claims for reimbursements for drugs that Respondent Javaherian never
19 provided to Medicare beneficiaries. Complainant refers to, and by this reference incorporates, the
20 allegations set forth above in paragraph 14, as though set forth fully herein.

21 **THIRD CAUSE FOR DISCIPLINE**

22 (Knowingly made or signed any documents that

23 falsely represent the existence or nonexistence of a state of facts)

24 16. Respondent West Aid Pharmacy and Respondent Javaherian are subject to
25 disciplinary action under sections 4301 and 4302 of the Code, in that they knowingly made and
26 signed documents that falsely represented the existence or nonexistence of a state of facts.
27 Complainant refers to and by this reference incorporates the allegations set forth above in
28 paragraphs 14 and 15, as though set forth fully herein.

1 FOURTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 17. Respondent West Aid Pharmacy and Respondent Javaherian are subject to
4 disciplinary action under section 4301 of the Code, in that they committed acts of unprofessional
5 conduct. Complainant refers to and by this reference incorporates the allegations set forth above
6 in paragraphs 14 through 16, as though set forth fully herein.

7 OTHER MATTERS

8 18. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
9 PHY 55801 issued to Respondent West Aid Pharmacy while Respondent Javaherian was an
10 officer and owner and had knowledge of or knowingly participated in any conduct for which the
11 licensee was disciplined, Respondent Javaherian shall be prohibited from serving as a manager,
12 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
13 Pharmacy Permit Number PHY 55801 is placed on probation or until Pharmacy Permit Number
14 PHY 55801 is reinstated if it is revoked.

15 DISCIPLINE CONSIDERATIONS

16 19. To determine the degree of discipline, Complainant alleges that:

17 a. On or about March 1, 2013, the Board issued Citation No. CI 2011 51939 with
18 \$875 fine to Respondent West Aid Pharmacy for violating section 4104, subdivision (b) of the
19 Code (failure to have written policies and procedures regarding reporting licensee drug theft or
20 impairment as required) and Code of Federal Regulations Title 21, Section 1304.11, subdivision
21 (c) (failure to inventory all its controlled substances as required). The Citation is now final and is
22 incorporated by reference as if fully set forth herein.

23 b. On or about August 30, 2013, the Board issued to Citation No. CI 2012 55558
24 with \$500 fine to Respondent West Aid Pharmacy for violating sections 4081, subdivision (a) and
25 4105 subdivision (a), of the Code (failure to account for all records of acquisition and disposition
26 and the current inventory of all dangerous drugs and devices as required). The Citation is now
27 final and is incorporated by reference as if fully set forth herein.

1 c. On or about May 20, 2015, the Board issued Citation No. CI 2014 62020 with
2 \$1000 fine to Respondent West Aid Pharmacy for violating Health & Safety Code section 11164
3 subdivision (a) (failure to fill out prescription forms adequately for the prescription of controlled
4 substances classified in Schedule II, III, IV, or V drugs) and California Code of Regulations, title
5 16, section 1761, subdivision (a) (dispensed a prescription which contained significant error,
6 omission, irregularity, uncertainty, ambiguity, or alteration without contacting the prescriber to
7 clarify). The Citation is now final and is incorporated by reference as if fully set forth herein.

8 d. On or about March 1, 2013, the Board issued Citation No. CI 2012 55859 with
9 \$875 fine to Respondent Javaherian for violating section 4104 subdivision (b) of the Code (failure
10 to have written policies and procedures regarding reporting Licensee drug theft or impairment as
11 required) and Code of Federal Regulations Title 21, Section 1304.11, subdivision (c) (Failure to
12 inventory all its controlled substance as required). The Citation is now final and is incorporated by
13 reference as if fully set forth herein.

14 e. On or about August 30, 2013, the Board issued Citation No. CI 2013 58088
15 with \$500 fine to Respondent Javaherian for violating sections 4081, subdivision (a), and 4105,
16 subdivision (a) of the Code (failure to account for all records of acquisition and disposition and
17 the current inventory of all dangerous drugs and devices as required). The Citation is now final
18 and is incorporated by reference as if fully set forth herein.

19 f. On or about May 20, 2015, the Board issued Citation No. CI 2014 65489 with
20 \$1,000 fine to Respondent Javaherlan for violating Health & Safety Code section 11164
21 subdivision (a) (failure to fill out prescription forms adequately for the prescription of controlled
22 substances classified in Schedule II, III, IV, or V drugs) and California Code of Regulations title
23 16, section 1761, subdivision (a) (dispensed a prescription which contained significant error,
24 omission, irregularity, uncertainty, ambiguity, or alteration without contacting the prescriber to
25 clarify). The Citation is now final and is incorporated by reference as if fully set forth herein.

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1 P R A Y E R

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

4 1. Revoking or suspending Pharmacy Permit Number PHY 48785, issued to Emoonah,
5 Inc., dba West Aid Pharmacy and Medical Supply;

6 2. ~~Revoking or suspending Pharmacist License Number RPH-55801, issued to Rouzbeh~~
7 ~~Javaherian;~~

8 3. Prohibiting Rouzbeh Javaherian from serving as a manager, administrator, owner,
9 member, officer, director, associate, or partner of a licensee for five years if Pharmacy License
10 No. PHY 48785 issued to Emoonah, Inc., dba West Aid Pharmacy and Medical Supply is placed
11 on probation or until Pharmacy License No. PHY 48785 is reinstated if revoked;

12 4. Prohibiting Rouzbeh Javaherian from serving as a manager, administrator, owner,
13 member, officer, director, associate, or partner of a licensee for five years if Registered
14 Pharmacist License No. RPH 55801 issued to him is placed on probation or until Pharmacist
15 License No. RPH 55801 is reinstated if revoked;

16 5. Ordering Emoonah, Inc., dba West Aid Pharmacy and Medical Supply and Rouzbeh
17 Javaherian to pay the Board of Pharmacy the reasonable costs of the investigation and
18 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

19 6. Taking such other and further action as deemed necessary and proper.
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22 DATED: 7/1/17

Virginia Herold

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

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