

1 EDMUND G. BROWN JR.
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 HELENE E. SWANSON
Deputy Attorney General
4 State Bar No. 130426
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 620-3005
6 Facsimile: (213) 897-2804
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. 3653

13 **SERRANO MEDICAL PHARMACY;**
14 **JAMES SONG**
15 **4220 W. 3rd Street, #100**
16 **Los Angeles, CA 90020**

A C C U S A T I O N

17 **Pharmacy Permit No. 49002**
18 **Pharmacist License No. 42830**

19 Respondents.

20 Complainant alleges:

21 **PARTIES**

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

24 2. On or about August 16, 1989, the Board of Pharmacy issued Pharmacist License
25 Number 42830 to James Song (Respondent Song). The Pharmacist License was in full force and
26 effect at all times relevant to the charges brought herein and will expire on November 30, 2010,
27 unless renewed.

28 3. On or about February 22, 2008, the Board of Pharmacy issued Pharmacy Permit
Number 49002 to Serrano Medical Pharmacy (Respondent Pharmacy). Respondent Song was at
all times relevant to the charges herein self-employed and the pharmacist in charge of Respondent

1 Pharmacy. The Pharmacy Permit was in full force and effect at all times relevant to the charges
2 brought herein and will expire on February 1, 2011, unless renewed.

3 JURISDICTION

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

7 5. Section 118, subdivision (b), states that the suspension, expiration, or forfeiture by
8 operation of law of a license issued by a Board in the department, or its suspension, forfeiture, or
9 cancellation by order of the Board or by order of a court of law, or its surrender without the
10 written consent of the Board, shall not, during any period in which it may be renewed, restored,
11 reissued, or reinstated.

12 6. Section 4022 defines "Dangerous Drug" or "dangerous device" means "any drug or
13 device unsafe for self-use in humans or animals", and which by federal or state law can be
14 lawfully dispensed only on prescription.

15 7. Section 4040, subdivision (a), defines "Prescription" as an "oral, written, or electronic
16 transmission order that is both of the following:

17 (1) Given individually for the person or persons for whom ordered that is both of the
18 following:

19 (A) The name or names and address of the patient or patients.

20 (B) The name and quantity of the drug or device prescribed and the directions for
21 use.

22 (C) The date of issue.

23 (D) Either rubber stamped, typed, or printed by hand or typeset, the name, address,
24 and telephone number of the prescriber, his or her license classification, and his or her federal
25 registry number, if a controlled substance is prescribed.

26 (E) A legible, clear notice of the condition or purpose for which the drug is
27 prescribed, if requested by the patient or patients.

28 (F) ...

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(2) Issued by a physician . . . licensed in this state.”

8. Section 4059 of the Code states, in pertinent part, that “(a) A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian . . .

9. Section 4060 of the Code states, in pertinent part, that “No person may possess any controlled substance, except that furnished to the person upon the prescription of a physician, dentist, podiatrist, or veterinarian . . . furnished pursuant to a drug order issued by a certified nurse-midwife, nurse practitioner, or a physician assistant.

10. Section 4300 permits the Board to take disciplinary action to suspend or revoke a license or permit.

11. Section 4301 of the Code states:

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

* * *

(b) Incompetence.

(c) Gross negligence.

* * *

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

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

* * *

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

* * *

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

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

6 12. Section 4306.5 states as follows:

7 “Unprofessional conduct for a pharmacist may include any of the following:

8 (a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of
9 his or her education, training, or experience as a pharmacist, whether or not the act or omission
10 arises in the course of the practice of pharmacy or the ownership, management, administration, or
11 operation of a pharmacy or other entity licensed by the board.

12 (b) Acts or omissions that involve, in whole or in part, the failure to exercise or
13 implement his or her best professional judgment or corresponding responsibility with regard to
14 the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or
15 with regard to the provision of services.

16 (c) Acts or omissions that involve, in whole or in part, the failure to consult
17 appropriate patient, prescription, and other records pertaining to the performance of any
18 pharmacy function.

19 (d) Acts or omissions that involve, in whole or in part, the failure to fully maintain
20 and retain appropriate patient-specific information pertaining to the performance of any pharmacy
21 function.”

22 13. Section 4313 provides that:

23 “In determining whether to grant an application for licensure or whether to discipline or
24 reinstate a license, the board shall give consideration to evidence of rehabilitation. However,
25 public protection shall take priority over rehabilitation and, where evidence of rehabilitation and
26 public protection are in conflict, public protection shall take precedence.”

27 14. Health and Safety Code section 11152, states:
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1 "No person shall write, issue, fill, compound, or dispense a prescription that does not
2 conform to this division."

3 15. Health and Safety Code section 11153, states:

4 "(a) A prescription for a controlled substance shall only be issued for a legitimate medical
5 purpose by an individual practitioner acting in the usual course of his or her professional practice.
6 The responsibility for the proper prescribing and dispensing of controlled substances is upon the
7 prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the
8 prescription. Except as authorized by this division, the following are not legal prescriptions: (1)
9 an order purporting to be a prescription which is issued not in the usual course of professional
10 treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of
11 controlled substances, which is issued not in the course of professional treatment or as part of any
12 authorized narcotic treatment program, for the purpose of providing the user with controlled
13 substances, sufficient to keep him or her comfortable by maintaining customary use."

14 16. Health and Safety Code section 11157 provides that "No person shall issue a
15 prescription that is false or fictitious in any respect."

16 17. Health and Safety Code section 11158, subdivision (a), states:

17 "Except as provided in Section 11159 or in subdivision (b) of this section, no controlled
18 substance classified in Schedule II shall be dispensed without a prescription meeting the
19 requirements of this chapter. Except as provided in Section 11159 or when dispensed directly to
20 an ultimate user by a practitioner, other than a pharmacist or pharmacy, no controlled substance
21 classified in Schedule III, IV, or V may be dispensed without a prescription meeting the
22 requirements of this chapter."

23 18. Health and Safety Code section 11162.1 states:

24 "(a) The prescription forms for controlled substances shall be printed with the following
25 features:

26 (1) A latent, repetitive "void" pattern shall be printed across the entire front of the
27 prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a
28 pattern across the entire front of the prescription.

1 (2) A watermark shall be printed on the backside of the prescription blank; the watermark
2 shall consist of the words "California Security Prescription."

3 (3) A chemical void protection that prevents alteration by chemical washing.

4 (4) A feature printed in thermochromic ink.

5 (5) An area of opaque writing so that the writing disappears if the prescription is lightened.

6 (6) A description of the security features shall be printed on the form and the following
7 quantities shall appear:

8 1-24

9 25-49

10 50-74

11 75-100

12 101-150

13 151 and over.

14 (B) In conjunction with the quantity boxes, a space shall be provided to designate the units
15 referenced in the quantity boxes when the drug is not in tablet or capsule form.

16 (8) Prescription blanks shall contain a statement printed on the bottom of the prescription
17 blank that the "Prescription is void if the number of drugs prescribed is not noted.

18 (9) The preprinted name, category of licensure, license number, federal controlled
19 substance registration number of the prescribing practitioner.

20 (10) Check boxes shall be printed on the form so that the prescriber may indicate the
21 number of refills ordered.

22 (11) The date of origin of the prescription.

23 (12) A check box indicting the prescriber's order not to substitute.

24 (13) An identifying number assigned to the approved security printer by the Department of
25 Justice.

26 (14) (A) A check box by the name of each prescriber when a prescription form lists
27 multiple prescribers.

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1 (B) Each prescriber who signs the prescription form shall identify himself or herself as the
2 prescriber by checking the box by his or her name.

3 (b) Each batch of controlled substance prescription forms shall have the lot number printed
4 on the form and each form within that batch shall be numbered sequentially beginning with the
5 numeral one.”

6 19. Health and Safety Code section 11164, subdivision (a), states:

7 “Except as provided in Section 11167, no person shall prescribe a controlled substance, nor
8 shall any person fill, compound, or dispense a prescription for a controlled substance, unless it
9 complies with the requirements of this section.

10 (a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V,
11 except as authorized by subdivision (b), shall be made on a controlled substance prescription form
12 as specified in Section 11162.1 and shall meet the following requirements:

13 (1) The prescription shall be signed and dated by the prescriber in ink and shall contain the
14 prescriber's address and telephone number; the name of the ultimate user or research subject, or
15 contact information as determined by the Secretary of the United States Department of Health and
16 Human Services; refill information, such as the number of refills ordered and whether the
17 prescription is a first-time request or a refill; and the name, quantity, strength, and directions for
18 use of the controlled substance prescribed.

19 (2) The prescription shall also contain the address of the person for whom the controlled
20 substance is prescribed. If the prescriber does not specify this address on the prescription, the
21 pharmacist filling the prescription or an employee acting under the direction of the pharmacist
22 shall write or type the address on the prescription or maintain this information in a readily
23 retrievable form in the pharmacy.”

24 20. Health and Safety Code section 11171 provides that no person shall prescribe,
25 administer, or furnish a controlled substance except under the conditions and in the manner
26 provided by this division.

27 21. Health and Safety Code section 11173 states:
28

1 “(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt
2 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
3 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

4 (b) No person shall make a false statement in any prescription, order, report, or record,
5 required by the division.”

6 22. Health and Safety Code section 11174 provides that “no person shall, in
7 connection with the prescribing, furnishing, administering, or dispensing of a controlled
8 substance, give a false name or false address.”

9 23. Health and Safety Code section 11180 provides that “no person shall obtain
10 or possess a controlled substance obtained by a prescription that does not comply with this
11 division. A “dangerous drug” is any drug unsafe for self-medication within the meaning of
12 section 4022 in that it requires a prescription under federal law.”

13 24. California Code of Regulations, title 16, section 1709.1 provides that: “(a) The
14 pharmacist-in-charge of a pharmacy shall be employed at that location and shall have
15 responsibility for the daily operation of the pharmacy.”

16 25. California Code of Regulations, title 16, section 1715.5 requires that the “collection
17 of information authorized by Health and Safety Code section 11165 shall be provided as follows:

18 (a) For each prescription for a Schedule II controlled substance, the dispensing pharmacy
19 shall provide the following information: the full name and address of the patient; the gender and
20 date of birth of the patient; the DEA (Drug Enforcement Administration) number of the
21 prescriber; the triplicate prescription number; the pharmacy prescription number; the pharmacy
22 license number; the NDC (National Drug Code) number and the quantity of the controlled
23 substance; the ICD-9 (diagnosis code), if available; the date of issue of the prescription, the date
24 of dispensing of the prescription, and the state medical license number of any prescriber using the
25 DEA number of a government exempt facility.”

26 26. California Code of Regulations, title 16, section 1716, states that “Pharmacists shall
27 not deviate from the requirements of a prescription except upon the prior consent of the prescriber
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1 or to select the drug product in accordance with Section 4073 of the Business and Professions
2 Code.”

3 27. California Code of Regulations, title 16, section 1717, subdivision (b), requires
4 pharmacies to maintain the following information for each prescription on file:

5 “(1) The date dispensed, and the name or initials of the dispensing pharmacist. . .

6 (2) The brand name of the drug or device; or if a generic drug or device is dispensed, the
7 distributor's name which appears on the commercial package label; and

8 (3) If a prescription for a drug or device is refilled, a record of each refill, quantity
9 dispensed, if different, and the initials or name of the dispensing pharmacist.

10 (4) A new prescription must be created if there is a change in the drug, strength, prescriber
11 or directions for use, unless a complete record of all such changes is otherwise maintained.”

12 28. California Code of Regulations, title 16, section 1717, subdivision (c), states:

13 “Promptly upon receipt of an orally transmitted prescription, the pharmacist shall reduce it
14 to writing, and initial it, and identify it as an orally transmitted prescription. If the prescription is
15 then dispensed by another pharmacist, the dispensing pharmacist shall also initial the prescription
16 to identify him or herself. All orally transmitted prescriptions shall be received and transcribed
17 by a pharmacist prior to compounding, filling, dispensing, or furnishing. . . .”

18 29. California Code of Regulations, title 16, section 1760 states that in reaching a
19 decision on a disciplinary action under the Administrative Procedure Act (Government Code
20 section 11400 et seq.), the board shall consider the disciplinary guidelines entitled “Disciplinary
21 Guidelines” (Rev. 1/2001). Deviation from these guidelines and orders, including the standard
22 terms of probation, is appropriate where the board, in its sole discretion, determines that the facts
23 of the particular case warrant such a deviation--the presence of mitigating factors; the age of the
24 case; evidentiary problems.

25 30. California Code of Regulations, title 16, section 1761 provides:

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

3 (b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense
4 a controlled substance prescription where the pharmacist knows or has objective reason to know
5 that said prescription was not issued for a legitimate medical purpose.”

6 31. California Code of Regulations, title 16, section 1793.3 provides, in pertinent part:

7 “(a) In addition to employing a pharmacy technician to perform the tasks specified in
8 section 1793.2, a pharmacy may employ a non-licensed person to type a prescription label or
9 otherwise enter prescription information into a computer record system, but the responsibility for
10 the accuracy of the prescription information and the prescription as dispensed lies with the
11 registered pharmacist who initials the prescription or prescription record. At the direction of the
12 registered pharmacist, a non-licensed person may also request and receive refill authorization.”

13 COST RECOVERY

14 32. Section 125.3 states, in pertinent part, that the Board may request the administrative
15 law judge to direct a licentiate found to have committed a violation or violations of the licensing
16 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
17 case.

18 CONTROLLED SUBSTANCES/ DANGEROUS DRUGS

19 33. “**Phenergan with Codeine**” (generic name: “**Promethazine hydrochloride with**
20 **Codeine**”) is a Schedule V controlled substance as designated by Health and Safety Code section
21 11058 and is a “dangerous drug” pursuant to Section 4022, in that under federal or state law it
22 requires a prescription. It is a narcotic analgesic used to treat a cough and symptoms of a cold or
23 allergy.

24 34. “**Oxycontin**” (generic name: “**Oxycodone**”) is a Schedule II controlled substance
25 pursuant to Health and Safety Code section 11055(b)(1)(N) and is a “dangerous drug” pursuant to
26 Section 4022 of the Code. It is used to treat pain.

1 35. **“Xanax”** (generic name: **“Alprazolam”**) is a Schedule IV controlled substance as
2 designated by Health and Safety Code section 11057, subdivision (d)(1) and is a dangerous drug
3 as defined by Section 4022. It is used to treat anxiety.

4 36. **“Vicodin, Lorcet, Norco, Vicodin ES, Vicodin HP and Lorcet 10/650”** (generic
5 name: **“Hydrocodone”** and **“Acetaminophen”**) are Schedule III controlled substances as
6 designated by the Health and Safety Code Section 11056, subdivision (e)(4) and are dangerous
7 drugs as defined Section 4022. They are narcotic analgesics used to treat moderate to severe
8 pain.

9 37. **“Carisoprodol”** is a centrally-acting skeletal muscle relaxer (brand name: **“Soma”**)
10 and is a dangerous drug within the meaning of Section 4022, in that it requires a prescription
11 under federal law.

12 38. **“Clonazepam”** is a Schedule IV controlled substance as designated by the Health and
13 Safety Code Section 11054, and is a dangerous drug, as defined in Section 4022.

14 39. **“Ambien”** is a brand of **“Zolpidem Tartrate”** and is a Schedule IV controlled
15 substance as designated by Health and Safety Code section 11057, and is a dangerous drug, as
16 defined in Section 4022.

17 40. **“Tussionex”** is a brand name for **“hydrocodone chlorpheniramin 10mg/5ml”**, is a
18 Schedule III controlled substance as designated by Health and Safety Code section 11056,
19 subdivision (e)(4) and is categorized as a “dangerous drug,” pursuant to Section 4022.

20 41. **“Valium”** is a brand of **“Diazepam”**, is a Schedule IV controlled substance as
21 designated by Health and Safety Code section 11057, subdivision (d)(8), and is categorized as a
22 dangerous drug under Section 4022.

23 42. **“Tylenol with Codeine”** is a compound consisting of codeine and acetaminophen,
24 and is a Schedule III controlled substance as designated by the Health and Safety Code section
25 11506, subdivision (e)(2), and is categorized as a dangerous drug under Section 4022.

26 43. **“Morphine”** is a Schedule II controlled substance as designated by the Health and
27 Safety Code section 11055, subdivisions (a) and (b)(1)(M), and is categorized as a dangerous
28 drug under Section 4022.

FIRST CAUSE FOR DISCIPLINE

(Prescriptions Containing Errors, Omissions, Irregularities and/or Uncertainties)

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3 44. Respondent Pharmacy and Respondent Song have subjected their permit and license
4 to discipline pursuant to Sections 4059, 4300 and 4301, for unprofessional conduct as defined in
5 Section 4301, subdivision (o), by violating Sections 4040, 4059, and 4060, Health and Safety
6 Code sections 11152, 11153, 11157, 11158, subdivision (a), 11162.1, 11164, subdivision (a),
7 11167, 11171, 11173, 11174, and California Code of Regulations, title 16, sections 1715.5, 1716,
8 1717, 1760, 1761; subdivisions (a) and (b), in that an audit by the Department of Health Care
9 Services (DHCS), Medical Review Branch, on or about March 20, 2009, found that 8
10 prescriptions filled by Respondents were fraudulent, and several of the prescriptions did not have
11 all of the elements required of a controlled substance prescription. DHCS personnel spoke with
12 Dr. Herbert R. Kornfeld, the prescriber of 8 of the prescriptions, who indicated that he had not
13 seen these patients, that the prescriptions were not signed by him, and that prescription blanks had
14 been stolen from a hospital where he works.

15 45. Upon referral of the case from DHCS, the Board conducted an investigation.
16 Respondent Song indicated that a woman, whose name appears to be Carol Hill, claimed to be
17 affiliated with an organization named "IHSS Home Health", and stated that she needed to get
18 prescriptions filled for patients that would not be able to pick up their own prescriptions. She
19 began bringing prescriptions to the pharmacy on or about June 1, 2008, to be filled. She
20 sometimes brought single prescriptions and sometimes multiple prescriptions, and either Ms. Hill
21 or sometimes other persons, picked up the filled prescriptions. The addresses on some of the
22 prescriptions were not in the same location as Respondent Pharmacy.

23 46. The false prescriptions bearing Dr. Kornfeld's name had dates ranging from between
24 July 31, 2008 to January 24, 2009. Ms. Hill signed a "UCLA Healthcare – Authorization for
25 Release of Health Information" on or about January 11, 2009, which purported to authorize Ms.
26 Hill to release health information to Respondent for prescriptions, and represented that Ms. Hill
27 was the patients' "provider" and UCLA Healthcare was the "Patient's Legal Representative."
28

1 Sometime in approximately January, 2009, Respondent Song stopped filling the prescriptions
2 with Dr. Kornfeld's name on them, after having been alerted by DHCS that they were bogus.

3 47. From on or about August 1, 2008 through January 24, 2009, 896 fraudulent
4 prescriptions were filled by Respondents, in violation of pharmacy law. The drugs which were
5 dispensed by Respondents through those fraudulent prescriptions are:

<u>DRUG</u>	<u>AMOUNT</u>
1 1. Alprazolam	14990
2 2. Carisoprodol	300
3 3. Clonazepam	880
4 4. Diazepam	1300
5 5. Hydro/Apap 10/325 (hydrocodone/ 6 acetaminophen)	500
7 6. Hydro/Apap 10/500 (hydrocodone/ 8 acetaminophen)	1780
9 7. Hydro/Apap 7.5/750 (hydrocodone/ 10 acetaminophen)	16630
11 8. Morphine	60
12 9. Oxycontin 80 mg	4500
13 10. Promethazine/Codeine	6916 oz. or 54 gallons
14 11. Tussionex	176 oz.
15 12. Tylenol with Codeine #4	600
16 13. Zolpidem	190

17 48. These filled prescriptions contained errors, omissions, irregularities, uncertainties,
18 ambiguities or alterations, as follows:

19 a. There were only 13 different drugs prescribed, and usually with the same directions
20 for use. Many of the prescriptions were filled at the same time, which meant the pharmacist knew
21 all the patients were receiving the same drug, but failed to question it.

22 b. Some of the prescriptions did not have the "latent void" appearing on the photocopy.

23 c. For some of the prescriptions for controlled substances, Respondent Song failed to
24 contact the prescribing physician to clarify any omission on the prescriptions and failed to
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1 exercise his corresponding responsibility to determine that a prescription was issued for a
2 legitimate medical purpose.

3 d. The prescriptions were fraudulent in that they were for patients who were never seen
4 or treated by Dr. Kornfeld, and the physician's signatures on the prescriptions did not match Dr.
5 Kornfeld's handwriting.

6 e. Some of the prescriptions, including the prescription for Promethazine/Codeine
7 syrup, did not specify the quantity checked on the prescription, as required by Health & Safety
8 Code section 11162.1, and the quantity was crossed out.

9 f. Respondents filled and/or dispensed numerous false prescriptions with Dr. Kornfeld's
10 name on them, despite the fact that the patient did not drop off or pick up the prescription, and
11 Respondent Song did not ask for proof of identification from the patient before filling the
12 prescriptions.

13 g. Respondents filled and/or dispensed numerous false prescriptions, even though some
14 of the patients' addresses were not local or in the local vicinity of Serrano Pharmacy.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Furnishing Drugs Without a Prescription)**

17 49. Respondents are subject to disciplinary action under Code sections 4300 and 4301,
18 subdivision (f) and (j), on the grounds of unprofessional conduct, for violating section 4059,
19 subdivision (a), in conjunction with Health and Safety Code sections 11152, 11153, 11157,
20 11158, subdivision (a), 11162.1, 11164, subdivision (a), 11167, 11171, 11173, 11174, and
21 California Code of Regulations, title 16, sections 1715.5, 1716, 1717, 1760, 1761, subdivisions
22 (a) and (b), in that from approximately August 1, 2008 through January 24, 2009, Respondents
23 furnished controlled substances and dangerous drugs, without legitimate prescriptions, as more
24 fully set forth in the preceding Paragraphs 44 through 48, and incorporated by reference as if fully
25 set forth.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 50. Respondent is subject to disciplinary action under sections 4300 and 4301,
4 subdivision (c), on the grounds of unprofessional conduct, in conjunction with Health and Safety
5 Code sections 11152, 11153, 11157, 11158, subdivision (a), 11162.1, 11164, subdivision (a),
6 11167, 11171, 11173, 11174, and California Code of Regulations, title 16, sections 1715.5, 1716,
7 1717, 1760, 1761, subdivisions (a) and (b), in that while self-employed as a Pharmacist at Serrano
8 Pharmacy, 5220 W. 3rd Street, #100, Los Angeles, CA 90020, Respondent committed acts that
9 were extreme departures from the standard of care and/or Respondent failed to exercise the
10 requisite degree of learning, skill, care and experience in filling and/or dispensing prescriptions,
11 as more fully set forth in the preceding Paragraphs 44 through 49, which are incorporated by
12 reference as if fully set forth.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Incompetence)**

15 51. Respondent is subject to disciplinary action under sections 4300 and 4301,
16 subdivisions (b), on the grounds of unprofessional conduct, in conjunction with Health and Safety
17 Code sections 11152, 11153, 11157, 11158, subdivision (a), 11162.1, 11164, subdivision (a),
18 11167, 11171, 11173, 11174, and California Code of Regulations, title 16, sections 1715.5, 1716,
19 1717, 1760, 1761, subdivisions (a) and (b), in that while self-employed as a Pharmacist at Serrano
20 Pharmacy, 5220 W. 3rd Street, #100, Los Angeles, CA 90020, Respondent committed acts of
21 incompetence, as more fully set forth in the preceding Paragraphs 44 through 50, which are
22 incorporated by reference as if fully set forth.

23 **DISCIPLINARY CONSIDERATIONS**

24 52. To determine the degree of discipline, if any, to be imposed on Respondent James
25 Song, Complainant alleges that on or about July 10, 2008, the Board of Pharmacy issued Citation
26 Number CI 2007 34591 and ordered Respondent to pay a \$500 fine by no later than August 9,
27 2008, for violating California Code of Regulations, title 16, section 1732.5, subdivision (b), for
28 failing to retain certificates of completion of 30 hours of approved courses of continuing

1 pharmaceutical education for four years following the completion of a course. That Citation is
2 now final and is incorporated by reference as if fully set forth.

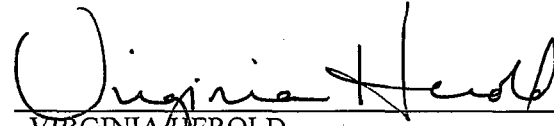
3 **PRAYER**

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

- 6 1. Revoking or suspending Pharmacy Permit Number 49002, issued to Serrano Medical
7 Pharmacy;
- 8 2. Revoking or suspending Pharmacist License Number 42830, issued to James Song;
- 9 3. Ordering Serrano Medical Pharmacy and James Song to pay the Board of Pharmacy
10 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 125.3; and
- 12 4. Taking such other and further action as deemed necessary and proper.

13
14 DATED: _____

7/26/10



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

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