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

11 In the Matter of the Accusation Against:

Case No. 5295

12 **TBT PHARMACY INC., DBA**  
13 **TBT PHARMACY INC.**  
14 **6552 Bolsa Avenue, Suite A**  
**Huntington Beach, CA 92647**

**ACCUSATION**

15 **Pharmacy License No. PHY 50904**

16 **VINH LE TRAN**  
17 **11462 Toscana Circle**  
**Stanton, CA 90680**

18 **Pharmacist License No. RPH 59831**

19 Respondents.

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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 14, 2012, the Board of Pharmacy issued Pharmacy Permit number  
27 PHY 50904 to TBT Pharmacy, Inc., doing business as TBT Pharmacy, Inc. (Respondent TBT  
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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 March 1, 2015, unless renewed.

3 3. On or about July 20, 2007, the Board of Pharmacy issued Pharmacist License number  
4 RPH 59831 to Vinh Le Tran (Respondent Vinh Tran.) The Pharmacist License was in full force  
5 and effect at all times relevant to the charges brought herein and will expire on August 31, 2016,  
6 unless renewed.

### 7 JURISDICTION

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

11 5. Section 4011 of the Code provides that the Board shall administer and enforce both  
12 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
13 Act [Health & Safety Code, § 11000 et seq.].

14 6. Section 4300(a) of the Code provides that every license issued by the Board may be  
15 suspended or revoked.

16 7. Section 4300.1 of the Code states:

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

### 21 STATUTORY AND REGULATORY PROVISIONS

22 8. Section 4301 of the Code states in pertinent part:

23 The board shall take action against any holder of a license who is guilty of  
24 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:

25 ...

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

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9. Section 4113(c) of the Code states:

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.

10. Section 4306.5 of the Code states, in pertinent part:

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

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

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

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11. Section 1761 of title 16, California Code of Regulations states:

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

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

#### COST RECOVERY

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

#### DRUG

13. Roxicodone is the brand name for oxycodone IR, a Schedule II controlled substance pursuant to Health and Safety Code section 11055(b) and a dangerous drug pursuant to Business and Professions Code section 4022.

1 **FACTUAL ALLEGATIONS**

2 14. From July 29, 2012 through the present, Respondent Vinh Tran has been the  
3 Pharmacist-in-Charge of Respondent TBT Pharmacy.

4 15. On or about November 29, 2012, Respondents' account with one of their drug  
5 wholesalers hit that wholesaler's limits for purchasing oxycodone. In or about January 2013, that  
6 drug wholesaler conducted a compliance review and blocked Respondents from purchasing  
7 controlled substances.

8 16. On or about January 16, 2013, during a conversation with Respondent Vinh Tran, the  
9 drug wholesaler representative documented that Respondent Vinh Tran had filled Dr. T.P.'s  
10 prescriptions for high quantity oxycodone without much question. On January 28, 2013, the drug  
11 wholesaler representative had an extensive discussion with Respondent Vinh Tran about red flag  
12 diversion issues. He informed Respondent Vinh Tran that complete due diligence needs to be  
13 done on all patients paying for controlled substances prescriptions with cash.

14 17. Respondents filled and dispensed 159 prescriptions for controlled substances which  
15 were written by Dr. T.P. from August 10, 2012 through November 8, 2013. Respondent TBT  
16 Pharmacy and Dr. T.P.'s offices were an average of 31 miles (one way) from the patients'  
17 addresses listed on prescriptions written by Dr. T.P. who was not specially trained in pain  
18 management. Ninety-five percent of these patients paid for the controlled substance prescriptions  
19 in cash at Respondent TBT Pharmacy and did not seek reimbursement from an insurance  
20 company or government agency.

21 18. Respondents dispensed prescriptions for patients who were being prescribed  
22 controlled substances by multiple prescribers at the same time and/or were filling prescriptions for  
23 controlled substances at multiple pharmacies during the same time period. Prior to April 8, 2013,  
24 Respondents did not have access to the Controlled Substance Utilization Review and Evaluation  
25 System (CURES). A review of the prescription data information from CURES would have  
26 revealed that Respondents were filling prescriptions for patients who were being prescribed  
27 controlled substances by multiple prescribers at the same time and/or were filling prescriptions for  
28 controlled substances at multiple pharmacies during the same time period.

1           19. On April 16, 2013, Respondents filled a prescription written by Dr. T.P. to patient  
2 T.B. for a hydrocodone containing product when patient T.B. had received a 30 day supply of that  
3 drug 15 days previously. On April 30, 2013, Respondents filled a prescription written by Dr. T.P.  
4 to patient F.T. for 120 tablets for a 30 day supply of oxycodone which was a potentially fatal  
5 increase in drug therapy from the amounts of hydrocodone medications prescribed to patient F.T.  
6 during the preceding year. On May 13, 2013, Respondents filled a prescription written by Dr.  
7 T.P. to patient J.G. for a 30 day supply of hydromorphone, 4mg four days after another pharmacy  
8 had dispensed a 23 day supply of oxycodone 30 mg to J.G. Both drugs were very potent short  
9 acting pain medications which were not safe to be used in combination. On May 13, 2013,  
10 Respondents filled a prescription written by Dr. T.P. to patient D.T. for the highest strength of  
11 oxycodone and for the shortest frequency, which could have been a fatal dosage.

12           20. In early October 2013, one of Respondents' drug wholesalers lifted the block  
13 preventing Respondents from purchasing controlled substances. On October 8, 2013, Respondent  
14 Vinh Tran told the drug wholesaler that the dispensing patterns had changed and that he was no  
15 longer dispensing controlled substances prescriptions written by Dr. T.P. However, after a review  
16 of Respondents' dispensing records, the drug wholesaler concluded that Respondents' dispensing  
17 patterns had become more high risk than the dispensing patterns found at the initial compliance  
18 review in January 2013. The drug wholesaler believed Respondents were a high risk and  
19 reinitiated the block for purchasing controlled substances.

20                                 **FIRST CAUSE FOR DISCIPLINE**

21                                 **(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions,  
22                                 Irregularities, Uncertainties, Ambiguities or Alterations against Respondents)**

23           21. Respondents are subject to disciplinary action under Code section 4301(o), for  
24 violating title 16, California Code of Regulations, sections 1761(a) and (b) in that they dispensed  
25 prescriptions for controlled substances, which contained significant errors, omissions,  
26 irregularities, uncertainties, ambiguities or alterations, as set forth in paragraphs 14 through 20  
27 above, which are incorporated herein by reference.

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**SECOND CAUSE FOR DISCIPLINE**

**(Failure to Exercise or Implement Best Professional Judgment or Corresponding  
Responsibility when Dispensing Controlled Substances  
against Respondent Vinh Tran)**

22. Respondent Vinh Tran is subject to disciplinary action under Code section 4301(o), for violating Business and Professions Code section 4306.5(a) and (b), in that he failed to exercise or implement his best professional judgment when dispensing controlled substances, as set forth in paragraphs 14 through 20 above, which are incorporated herein by reference.

**THIRD CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct against Respondents)**

23. Respondents are subject to disciplinary action under Code section 4301 for unprofessional conduct in that they engaged in the activities described in paragraphs 14 through 20 above, which are incorporated herein by reference.

**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 License number PHY 50904 issued to TBT Pharmacy, Inc., doing business as TBT Pharmacy, Inc;
- 2. Revoking or suspending Pharmacist License number RPH 59831 issued to Vinh Le Tran;
- 3. Ordering TBT Pharmacy, Inc., doing business as TBT Pharmacy, Inc. and Vinh Le Tran 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;

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

DATED: 3/28/15 Virginia Herold

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

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