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6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 2392

11 KYUNG RYUEL IM
Owner - Secretary
12 23329 Almarosa Avenue
Torrance, California 90505
13 Pharmacist License No. RPH 36933

OAH No. L-2002020318

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 and

15 NICHOLAS NAK-KYUN IM
Owner - President
16 23329 Alamrosa Avenue
Torrance, California 90505
17 Pharmacist License No. RPH 37037

18 and

19 ETHICAL DRUGS
254 N. Western Avenue
20 Los Angeles, California 90004
KYUNG R. IM,
21 Pharmacist-in-Charge
22 Pharmacy Permit No. PHY 34015

Respondent.

24

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

27

PARTIES

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1. Patricia F. Harris ("Complainant") is the Executive Officer of the Board of

1 read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and
2 Disciplinary Order.

3 8. Respondents are fully aware of their legal rights in this matter, including
4 the right to a hearing on the charges and allegations in the Accusation; the right to be represented
5 by counsel at their own expense; the right to confront and cross-examine the witnesses against
6 them; the right to present evidence and to testify on their own behalf; the right to the issuance of
7 subpoenas to compel the attendance of witnesses and the production of documents; the right to
8 reconsideration and court review of an adverse decision; and all other rights accorded by the
9 California Administrative Procedure Act and other applicable laws.

10 9. Respondents voluntarily, knowingly, and intelligently waive and give up
11 each and every right set forth above.

12 CULPABILITY

13 10. Respondents understand and agree that the charges and allegations in
14 Accusation No. 2392, if proven at a hearing, constitute cause for imposing discipline upon their
15 Pharmacy Permit and Pharmacist Licenses.

16 11. For the purpose of resolving the Accusation without the expense and
17 uncertainty of further proceedings, Respondents agree that, at a hearing, Complainant could
18 establish a factual basis for the charges in the Accusation, and that Respondents hereby give up
19 their right to contest those charges.

20 12. Respondents agree that their Pharmacy Permit and Pharmacist Licenses
21 are subject to discipline and they agree to be bound by the Board's imposition of discipline as set
22 forth in the Disciplinary Order below.

23 CONTINGENCY

24 13. This stipulation shall be subject to approval by the Board of Pharmacy.
25 Respondents understand and agree that counsel for Complainant and the staff of the Board of
26 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,
27 without notice to or participation by Respondents or their counsel. By signing the stipulation,
28 Respondents understand and agree that they may not withdraw their agreement or seek to rescind

1 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
2 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
3 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
4 between the parties, and the Board shall not be disqualified from further action by having
5 considered this matter.

6 14. The parties understand and agree that facsimile copies of this Stipulated
7 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
8 force and effect as the originals.

9 15. In consideration of the foregoing admissions and stipulations, the parties
10 agree that the Board may, without further notice or formal proceeding, issue and enter the
11 following Disciplinary Order:

12 **DISCIPLINARY ORDER**

13 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 34015 issued to
14 Respondent Ethical Drugs is revoked.

15 IT IS HEREBY FURTHER ORDERED that Pharmacist License No. RPH 36933
16 issued to Respondent Kyung Ryuel Im (“Respondent Kyung”), and Pharmacist License No. RPH
17 37037 issued to Respondent Nicholas Nak-Kyun Im (“Respondent Nicholas”), are revoked.
18 However, the revocation is stayed and Respondents Kyung and Nicholas are each placed on
19 probation for three (3) years on the following terms and conditions.

20 1. **Obey All Laws.** Respondents Nicholas and Kyung shall obey all state
21 and federal laws and regulations substantially related to or governing the practice of pharmacy.

22 Respondents Nicholas and Kyung shall report any of the following occurrences to
23 the Board, in writing, within 72 hours of such occurrence:

- 24 • an arrest or issuance of a criminal complaint for violation of any provision of the
25 Pharmacy Law, state and federal food and drug laws, or state and federal
26 controlled substances laws
- 27 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
28 any criminal complaint, information or indictment

- 1 • a conviction of any crime
2 • discipline, citation, or other administrative action filed by any state and federal
3 agency which involves his/her license or which is related to the practice of
4 pharmacy or the manufacturing, obtaining, handling or distribution or billing or
5 charging for any drug, device or controlled substance.

6 2. **Reporting to the Board.** Respondents Nicholas and Kyung shall
7 report to the Board quarterly. The report shall be made either in person or in writing, as
8 directed. Respondents Nicholas and Kyung shall state under penalty of perjury whether there
9 has been compliance with all the terms and conditions of probation. If the final probation
10 report **is not** made as directed, probation shall be extended automatically until such time as the
11 final report is made and accepted by the Board.

12 3. **Interview with the Board.** Upon receipt of reasonable notice,
13 Respondents Nicholas and Kyung shall appear in person for interviews with the Board upon
14 request at various intervals at a location to be determined by the Board. Failure to appear for a
15 scheduled interview without prior notification to Board staff shall be considered a violation of
16 probation.

17 4. **Cooperation with Board Staff.** Respondents Nicholas and Kyung
18 shall cooperate with the Board's inspectional program and in the Board's monitoring and
19 investigation of his/her compliance with the terms and conditions of his/her probation. Failure
20 to comply shall be considered a violation of probation.

21 5. **Continuing Education.** Respondents Nicholas and Kyung shall
22 provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the
23 Board.

24 6. **Notice to Employers.** Respondents Nicholas and Kyung shall notify
25 all present and prospective employers of the decision in Case Number 2392 and the terms,
26 conditions and restrictions imposed on him/her by the decision. Within 30 days of the
27 effective date of this decision, and within 15 days of Respondents Nicholas and Kyung
28 undertaking new employment, Respondents Nicholas and Kyung shall cause his/her direct

1 supervisor, pharmacist-in-charge and/or owner to report to the Board in writing
2 acknowledging the employer has read the decision in Case Number 2392.

3 If Respondents Kyung and Nicholas work for or are employed by or through a
4 pharmacy employment service, said Respondents must notify the direct supervisor,
5 pharmacist-in-charge, and/or owner at every pharmacy of the terms conditions of the decision
6 in Case Number 2392 in advance of said Respondents commencing work at each pharmacy.

7 "Employment" within the meaning of this provision shall include any full-time, part-
8 time, temporary, relief or pharmacy management service as a pharmacist, whether the
9 Respondent is considered an employee or independent contractor.

10 **7. No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
11 **Charge (PIC), or Serving as a Consultant.** Respondents Nicholas and Kyung shall not
12 supervise any intern pharmacist or perform any of the duties of a preceptor, nor shall said
13 Respondents be the pharmacist-in-charge of any entity licensed by the Board unless otherwise
14 specified in this order.

15 **8. Reimbursement of Board Costs.** Respondents Kyung and Nicholas
16 shall pay to the Board its costs of investigation and prosecution in the amount of \$5,400.00.
17 Respondent Kyung shall pay \$2,700.00, and Respondent Nicholas shall pay \$2,700.00.

18 The filing of bankruptcy by Respondents shall not relieve Respondents of their
19 responsibility to reimburse the Board its costs of investigation and prosecution.

20 **9. Probation Monitoring Costs.** Respondents Nicholas and Kyung shall
21 pay the costs associated with probation monitoring as determined by the Board each and every
22 year of probation. Such costs shall be payable to the Board at the end of each year of
23 probation. Failure to pay such costs shall be considered a violation of probation.

24 **10. Status of License.** Respondents Nicholas and Kyung shall, at all times
25 while on probation, maintain an active current license with the Board, including any period
26 during which suspension or probation is tolled.

27 If the respective licenses of Respondents Nicholas and Kyung expire or are
28 cancelled by operation of law or otherwise, upon renewal or reapplication, said licenses shall

1 be subject to all terms and conditions of this probation not previously satisfied.

2 **11. License Surrender while on Probation/Suspension.** Following the
3 effective date of this decision, should Respondents Nicholas and Kyung, respectively, cease
4 practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions
5 of probation, said Respondents may tender his/her license to the Board for surrender. The
6 Board shall have the discretion whether to grant the request for surrender or take any other
7 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
8 license, said Respondents will no longer be subject to the terms and conditions of probation.

9 Upon acceptance of the surrender, Respondents Nicholas and Kyung shall
10 relinquish his/her pocket license to the Board within 10 days of notification by the Board that
11 the surrender is accepted. Respondents may not reapply for any license from the Board for
12 three years from the effective date of the surrender. Respondents shall meet all requirements
13 applicable to the license sought as of the date the application for that license is submitted to
14 the Board.

15 **12. Notification of Employment/Mailing Address Change.** Respondents
16 Nicholas and Kyung shall notify the Board in writing within 10 days of any change of
17 employment. Said notification shall include the reasons for leaving and/or the address of the
18 new employer, supervisor or owner and work schedule if known. Respondents shall notify the
19 Board in writing within 10 days of a change in name, mailing address or phone number.

20 **13. Tolling of Probation.** Respondent Kyung shall work at least 40 hours
21 in each calendar month as a pharmacist and at least an average of 80 hours per month in any
22 six consecutive months. Failure to do so will be a violation of probation. If Respondent
23 Kyung has not complied with this condition during the probationary term, and Respondent
24 Kyung has presented sufficient documentation of her good faith efforts to comply with this
25 condition, and if no other conditions have been violated, the Board, in its discretion, may
26 grant an extension of Respondent Kyung's probation period up to one year without further
27 hearing in order to comply with this condition.

28 Respondent Nicholas shall work at least 10 hours in each calendar month as a

1 pharmacist and at least an average of 20 hours per month in any six consecutive months.
2 Failure to do so will be a violation of probation. If Respondent Nicholas has not complied
3 with this condition during the probationary term, and Respondent Nicholas has presented
4 sufficient documentation of his good faith efforts to comply with this condition, and if no
5 other conditions have been violated, the Board, in its discretion, may grant an extension of
6 Respondent Nicholas's probation period up to one year without further hearing in order to
7 comply with this condition.

8 14. **Violation of Probation.** If Respondents Nicholas and Kyung violate
9 probation in any respect, the Board, after giving said Respondents notice and an opportunity
10 to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a
11 petition to revoke probation or an accusation is filed against said Respondents during
12 probation, the Board shall have continuing jurisdiction and the period of probation shall be
13 extended, until the petition to revoke probation or accusation is heard and decided.

14 If Respondents Nicholas and Kyung have not complied with any term or
15 condition of probation, the Board shall have continuing jurisdiction over said Respondents,
16 and probation shall automatically be extended until all terms and conditions have been
17 satisfied or the Board has taken other action as deemed appropriate to treat the failure to
18 comply as a violation of probation, to terminate probation, and to impose the penalty which
19 was stayed.

20 15. **Completion of Probation.** Upon successful completion of probation,
21 the respective licenses of Respondents Nicholas and Kyung will be fully restored.

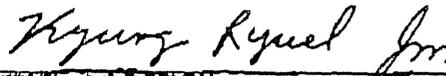
22 16. **No Ownership of Premises.** Respondents Nicholas and Kyung shall
23 not own, have any legal or beneficial interest in, or serve as a manager, administrator,
24 member, officer, director, associate, or partner of any business, firm, partnership, or
25 corporation currently or hereinafter licensed by the Board. Respondents shall sell or transfer
26 any legal or beneficial interest in any entity licensed by the Board within 90 days following
27 the effective date of this decision and shall immediately thereafter provide written proof
28 thereof to the Board.

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ACCEPTANCE

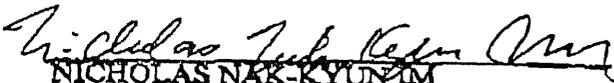
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it will have on my Pharmacy Permit and Pharmacist License. I enter into this Stipulated Settlement and Disciplinary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

DATED: JULY 30, 2002



KYUNG RYUEL IM
Owner - Secretary, ETHICAL DRUGS
Respondent

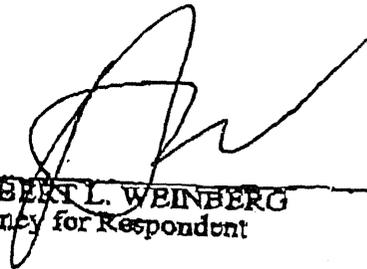
DATED: JULY 30, 2002



NICHOLAS NAK-KYUN IM
Owner - President, ETHICAL DRUGS
Respondent

I have read and fully discussed with Respondents Kyung Ryuel Im, Nicholas Nak-Kyun Im, and Ethical Drugs, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 7/30/02



HERBERT L. WEINBERG
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 7-30-02.

BILL LOCKYER, Attorney General
of the State of California



ERLINDA G. SHRENGER
Deputy Attorney General

Attorneys for Complainant

03583110-LA2001AD0773

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

In the Matter of the Accusation Against:

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Pharmacist License No. RPH 36933

OAH No. L-2002020318

and

NICHOLAS NAK-KYUN IM
Owner - President
23329 Alamrosa Avenue
Torrance, California 90505
Pharmacist License No. RPH 37037

and

ETHICAL DRUGS
254 N. Western Avenue
Los Angeles, California 90004
KYUNG R. IM,
Pharmacist-in-Charge
Pharmacy Permit No. PHY 34015

Respondents.

DECISION AND ORDER

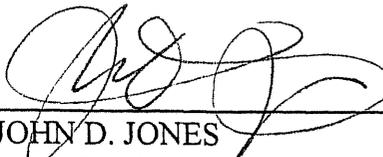
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 13, 2002.

It is so ORDERED September 13, 2002.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By: _____


JOHN D. JONES

Board President

1 BILL LOCKYER, Attorney General
of the State of California
2 ERLINDA G. SHRENGER, State Bar No. 155904
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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11 In the Matter of the Accusation Against:

Case No. 2392

12 KYUNG RYUEL IM,
Owner - Secretary
13 23329 Almarosa Avenue
Torrance, California 90505
14 Pharmacist License No. RPH 36933,

ACCUSATION

15 NICHOLAS NAK-KYUN IM,
Owner - President
16 23329 Alamrosa Avenue
Torrance, California 90505
17 Pharmacist License No. RPH 37037,

18 and

19 ETHICAL DRUGS
254 N. Western Avenue
20 Los Angeles, California 90004
KYUNG R. IM,
21 Pharmacist-in-Charge
Pharmacy Permit No. PHY 34015

Respondents.

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24 Complainant alleges:

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PARTIES

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1. Patricia F. Harris ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

1 9 (commencing with Section 4000) of the Business and Professions Code or of
2 the applicable federal and state laws and regulations governing pharmacy,
3 including regulations established by the Board.

4 (q) Engaging in any conduct that subverts or attempts to subvert an
5 investigation of the Board.

6 8. Section 4059.5(e) of the Code states, in pertinent part, that a
7 dangerous drug or dangerous device shall not be transferred, sold, or delivered to any
8 person outside this state, whether foreign or domestic, unless the transferor, seller, or
9 deliverer does so in compliance with the laws of this state and of the United States and
10 of the state or country to which the drugs or devices are to be transferred, sold, or
11 delivered.

12 9. Section 4081(a) of the Code states, in pertinent part, that a current
13 inventory shall be kept by every pharmacy, or establishment holding a currently valid
14 and unrevoked certificate, license, permit, registration who maintains a stock of
15 dangerous drugs or dangerous devices.

16 10. Section 4160(a) of the Code states no person shall act as a
17 wholesaler of any dangerous drug or dangerous device unless he or she has obtained
18 a license from the Board. Upon approval by the Board and the payment of the
19 required fee, the Board shall issue a license to the applicant.

20 11. Section 4022 of the Code, in pertinent part, defines "Dangerous
21 Drug" as any drug that is unsafe for self-medication and which by federal or state law
22 can be lawfully dispensed only on prescription.

23 12. Section 4332 of the Code states that any person who fails,
24 neglects, or refuses to maintain the records required by Section 4081 or who, when
25 called upon by an authorized officer or a member of the Board, fails, neglects, or
26 refuses to produce or provide the records within a reasonable time, or who willfully
27 produces or furnishes records that are false, is guilty of a misdemeanor.

28 13. Title 16, California Code of Regulations, section 1718 states that

1 "Current Inventory" as used in Section 4232 of the Business and Professions Code
2 shall be considered to include complete accountability for all dangerous drugs handled
3 by every licensee enumerated in Section 4232.

4 14. Section 125.3 of the Code states, in pertinent part, that the Board
5 may request the administrative law judge to direct a licensee found to have committed
6 a violation or violations of the licensing act to pay a sum not to exceed the reasonable
7 costs of the investigation and enforcement of the case.

8 **DANGEROUS DRUG**

9 15. Viagra is a trade name for generic Sildenafil Citrate which is a
10 dangerous drug pursuant to Section 4022 of the Code. It is used in the treatment of
11 Erectile Dysfunction.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Failure to Obtain Wholesaler's License)**

14 16. Respondents Kyung and Nicholas have subjected their licenses to
15 discipline pursuant to Section 4301 of the Code for unprofessional conduct, as defined
16 in Section 4301(j) of the Code, and in violation of Section 4160(a) of the Code, in that
17 on November 5, 1999, Respondents Kyung and Nicholas were issued a violation notice
18 for acting as a wholesaler of a dangerous drug without a wholesale license. The
19 circumstances surrounding the violation notice are that on and between January 1,
20 1999 to October 31, 1999, Respondents Kyung and Nicholas sold Viagra to Hana
21 Pharmaceuticals in Seoul, Korea without a wholesale license and without the
22 appropriate permits from Korea to import drugs.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Failure to Maintain Accurate Records)**

25 17. Respondents Kyung and Nicholas have subjected their licenses to
26 discipline pursuant to Section 4301 of the Code for unprofessional conduct, as defined
27 in Section 4301(o) of the Code, and in violation of Sections 4081(a) and 4332 of the
28 Code, and in conjunction with Title 16, California Code of Regulations, section 1718, in

1 Pharmaceuticals in Seoul, South Korea without documentation showing Respondent
2 Pharmacy was compliant with South Korea's drug importation laws, and that Hana
3 Pharmaceuticals was legally authorized to receive the drugs.

4 **PRAYER**

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

8 1. Revoking or suspending Pharmacist License Number RPH 36933,
9 issued to Kyung Ryuel Im;

10 2. Revoking or suspending Pharmacist License Number RPH 37037,
11 issued to Nicholas Nak-Kyun Im;

12 3. Revoking or suspending Pharmacy Permit Number PHY 34015,
13 issued to Ethical Drugs;

14 4. Ordering Kyung Ryuel Im, Nicholas Nak-Kyun Im and Ethical Drugs
15 to pay the Board of Pharmacy the reasonable costs of the investigation and
16 enforcement of this case, pursuant to Business and Professions Code section 125.3;

17 5. Taking such other and further action as deemed necessary and
18 proper.

19 DATED: 12/12/01

21
22 *P. F. Harris*

23 PATRICIA F. HARRIS
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant