

1 BILL LOCKYER, Attorney General
of the State of California
2 THOMAS L. RINALDI, State Bar No. 206911
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2541
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 2421

12 ADELINA B. MANABAT
13 DBA ROMDEL PHARMACY
OWNER
2739 Buckaroo Avenue
Oxnard, CA 93030
Los Angeles, CA 90045

OAH No. L-2002040612

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 Original Pharmacy Permit No. PHY 43144

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 PARTIES

20
21 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
22 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
23 by Bill Lockyer, Attorney General of the State of California, by Thomas L. Rinaldi, Deputy
24 Attorney General.

25 2. Adelina B. Manabat (Respondent) is represented in this proceeding by
26 attorney Edward O. Lear, Esq., whose address is LEAR & TREIMAN LLP, 5200 W. Century
27 Blvd., Suite 940, Los Angeles, CA 90045.

28 3. On or about August 20, 1997, the Board of Pharmacy issued Original

1 Pharmacy Permit No. PHY 43144 to dba Romdel Pharmacy, Adelina B. Manabat, Owner. The
2 expired on June 12, 2000, and has not been renewed.

3 JURISDICTION

4 4. Accusation No. 2421 was filed before the Board of Pharmacy (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on February 13,
7 2002. Respondent timely filed its Notice of Defense contesting the Accusation. A copy of
8 Accusation No. 2421 is incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and
11 understands the charges and allegations in Accusation No. 2421. Respondent also has carefully
12 read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of
13 License and Order.

14 6. Respondent is fully aware of her legal rights in this matter, including the
15 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
16 counsel, at her own expense; the right to confront and cross-examine the witnesses against her;
17 the right to present evidence and to testify on her own behalf; the right to the issuance of
18 subpoenas to compel the attendance of witnesses and the production of documents; the right to
19 reconsideration and court review of an adverse decision; and all other rights accorded by the
20 California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
22 each and every right set forth above.

23 CULPABILITY

24 8. Respondent understands that the charges and allegations in Accusation
25 No. 2421, if proven at a hearing, constitute cause for imposing discipline upon its Original
26 Pharmacy Permit .

27 9. Respondent neither admits nor denies the charges and allegations as set
28 forth in the Accusation. However, Respondent agrees that should she ever apply for licensure

1 ORDER

2 IT IS HEREBY ORDERED that Original Pharmacy Permit No. PHY 43144,
3 issued to Respondent dba Romdel Pharmacy, Adelina B. Manabat, Owner is surrendered and
4 accepted by the Board of Pharmacy.

5 14. Respondent shall lose all rights and privileges as a Pharmacy in California
6 as of the effective date of the Board's Decision and Order.

7 15. Respondent shall cause to be delivered to the Board her wallet certificate
8 on or before the effective date of the Decision and Order. Respondent shall cause her wall
9 certificate to be delivered to the Board in the same manner to the extent the same can be located
10 and obtained from other parties.

11 16. Respondent understands and agrees that if she ever applies for licensure or
12 petitions for reinstatement in the State of California, the Board shall treat it as a new application
13 for licensure. Respondent must comply with all the laws, regulations and procedures for
14 licensure in effect at the time the application or petition is filed, and all of the charges and
15 allegations contained in Accusation, No. 2421 will be deemed to be true, correct and admitted
16 by Respondent when the Board determines whether to grant or deny the application or petition.

17 17. Respondent shall pay the Board its costs of investigation and enforcement
18 in this matter in the amount of \$4,500.00 as one condition to receiving a new or reinstated
19 license.

20 ACCEPTANCE

21 I have carefully read the above Stipulated Surrender of License and Order and
22 have fully discussed it with my attorney, Edward O. Lear, Esq.. I understand the stipulation and
23 the effect it will have on my Original Pharmacy Permit . I enter into this Stipulated Surrender of
24 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
25 Decision and Order of the Board of Pharmacy.

26 DATED: _____.

27 _____
28 ADELINA B. MANABAT
Respondent

FROM :

Aug-07 02 15:58

FAX NO. : 8059864701

Aug. 07 2002 04:27PM P2

3106426910

P.02

ORDER

IT IS HEREBY ORDERED that Original Pharmacy Permit No. PHY 43144, issued to Respondent dba Romdel Pharmacy, Adelina B. Manabat, Owner is surrendered and accepted by the Board of Pharmacy.

14. Respondent shall lose all rights and privileges as a Pharmacy in California as of the effective date of the Board's Decision and Order.

15. Respondent shall cause to be delivered to the Board her wallet certificate on or before the effective date of the Decision and Order. Respondent shall cause her wall certificate to be delivered to the Board in the same manner to the extent the same can be located and obtained from other parties.

16. Respondent understands and agrees that if she ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 2421 will be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

17. Respondent shall pay the Board its costs of investigation and enforcement in this matter in the amount of \$4,500.00 as one condition to receiving a new or reinstated license.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Edward O. Lear, Esq.. I understand the stipulation and the effect it will have on my Original Pharmacy Permit. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 8-7-02

Adelina B. Manabat
ADELINA B. MANABAT
Respondent

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

I have read and fully discussed with Respondent Adelina B. Manabat the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 8/7/02

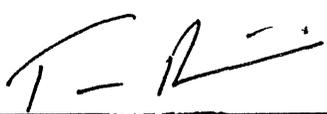

EDWARD O. LEAR, ESQ.
Attorney for Respondent

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: 8/9/02

BILL LOCKYER, Attorney General
of the State of California


THOMAS L. RINALDI
Deputy Attorney General
Attorneys for Complainant

DOJ Docket Number: 03583110-LA2001AD1246
Stipulation for surrender 10/12/01

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

In the Matter of the Accusation Against:

DBA ROMDEL PHARMACY
ADELINA B. MANABAT, Owner
2739 Buckaroo Avenue
Oxnard, CA 93030
Los Angeles, CA 90045

Original Pharmacy Permit No. PHY 43144

Respondent.

Case No. 2421

OAH No. L-2002040612

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 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 THOMAS L. RINALDI, State Bar No. 206911
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2559
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7

8

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

9

10

11 In the Matter of the Accusation Against:

Case No. 2421

12 ADELINA B. MANABAT, doing business as
ROMDEL PHARMACY
13 2739 Buckaroo Avenue
Oxnard, CA 93030
14 Adelina B. Manabat, Owner

THIRD AMENDED ACCUSATION

15 Original Pharmacy Permit No. PHY 43144

16 and

17 ROBERT WAYNE BLACKBURN
25515 Lone Pine
18 Laguna Hills, CA 92653

19 Original Pharmacist License No. RPH 30586

20 Respondents.

21

22 Complainant alleges:

23

PARTIES

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

27 2. On or about April 30, 1990, the Board issued Original Pharmacist License
28 Number RPH 30586 to Robert Wayne Blackburn ("Respondent Blackburn"). The pharmacist

1 license was in full force and effect at all times relevant to the charges brought herein and will
2 expire on April 30, 2003, unless renewed.

3 3. On or about August 20, 1997, the Board issued Original Pharmacy Permit
4 Number PHY 43144 to Adelina B. Manabat to do business as Romdel Pharmacy ("Respondent
5 Pharmacy"). The Pharmacy Permit was in full force and effect until a discontinuance of business
6 was filed on June 12, 2000.¹

7 4. Respondent Blackburn was the Pharmacist-in-Charge of Respondent
8 Pharmacy from May 6, 1999 through July 18, 2000.

9 JURISDICTION

10 5. This Accusation is brought before the Board under the authority of the
11 following sections of the Business and Professions Code ("Code").

12 6. Section 4300 of the Code permits the Board to take disciplinary action to
13 suspend or revoke a license issued by the Board.

14 7. Section 4301 of the Code states that the Board shall take action against any
15 holder of a license who is guilty of unprofessional conduct. Unprofessional conduct includes,
16 but is not limited to, any of the following:

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

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

21 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting
22 the violation of or conspiring to violate any provision or term of Chapter 9
23 (commencing with Section 4000) of the Business and Professions Code or of the
24 applicable federal and state laws and regulations governing pharmacy, including
25 regulations established by the board.

26
27
28 1. Adelina Manabat was dismissed pursuant to a settlement agreement which was adopted by the Board of
Pharmacy on September 13, 2002.

1 8. Section 4081(a) of the Code requires that all records of manufacture and of
2 sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during
3 business hours open to inspection by authorized officers of the law, and shall be preserved for at least
4 three years from the date of making. It further requires that every pharmacy maintain a current
5 inventory.

6 9. Section 4059.5(a) of the Code states that dangerous drugs or dangerous
7 devices may only be ordered by an entity licensed by the Board and must be delivered to the
8 licensed premises and signed for and received by the pharmacist-in-charge, or, in his or her
9 absence, another pharmacist designated by the pharmacist-in-charge.

10 10. Section 4332 provides that any person who fails, neglects, or refuses to
11 maintain the records required by section 4081 or who, when called upon by an authorized officer
12 or a member of the board, fails, neglects, or refuses to produce or provide the records within a
13 reasonable time, or who willfully produces or furnishes records that are false, is guilty of a
14 misdemeanor.

15 11. Section 4333 requires in pertinent part that all prescriptions filled by a
16 pharmacy and other records required by section 4081 shall be maintained on the premises and
17 available for inspection by authorized officers of the law for a period of at least three years. In
18 cases where the pharmacy discontinues business, these records shall be maintained in a board-
19 licensed facility for at least three years.

20 12. Section 4160 requires in pertinent part:

21 (a). No person shall act as a wholesaler of any dangerous drug or dangerous devise
22 unless he or she has obtained a license from the board. Upon approval by the board
23 and payment of the required fee, the board shall issue a license to the applicant.

24 ...

25 (c). A separate license shall be required for each place of business owned or operated
26 by a wholesaler. Each license shall be renewed annually and shall not be
27 transferrable.

28 13. Section 4043 states in pertinent part that "Wholesaler" means and includes

1 every person who sells for resale, or negotiates for distribution, or takes possession of any drug
2 or devise included in Section 4022.

3 14. Section 4110 states in pertinent part that

4 (a) No person shall conduct a pharmacy in the State of California unless he or she has
5 obtained a license from the Board. A license shall be required for each pharmacy
6 owned or operated by a specific person. A separate license shall be required for each
7 of the premises of an person operating a pharmacy in more than one location. The
8 license shall be renewed annually. The board may, by regulation, determine the
9 circumstances under which a license may be transferred.

10 (b) The board may, at its discretion, issue a temporary permit, when the ownership
11 of a pharmacy is transferred from one person to another, upon the conditions and for
12 any periods of time as the Board determines to be in the public interest...."

13 15. Section 4113(b) provides in pertinent part that the pharmacist-in-charge shall
14 be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining
15 to the practice of pharmacy.

16 16. Section 1718 of Title 16, California Code of Regulations states: "Current
17 Inventory" as used in Section 4081 of the Business and Professions Code shall be considered to
18 include complete accountability for all dangerous drugs.² The controlled substance inventories
19 required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least
20 3 years after the date of the inventory.

21 17. Section 118, subdivision (b), of the Code provides that the expiration of a
22 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
23 period within which the license may be renewed, restored, reissued or reinstated.

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

27
28 2. The current text of this regulation refers to section 4232 of the Code, however, in 1996, the Pharmacy Act was
renumbered and the provision which was formerly found at section 4232 is now section 4081.

1 and enforcement of the case.

2 FIRST CAUSE FOR DISCIPLINE

3 (Failure to Make Records Available for Inspection)

4 19. Respondent Blackburn is subject to disciplinary action pursuant to sections
5 4300 and 4301(o) of the Code on the grounds of unprofessional conduct for violating sections
6 4081(a), 4332 and 4333 of the Code in that he failed to make pharmacy records available for
7 inspection. The circumstances are as follows:

8 a. On June 16, 2000, letters were sent by the Board of Pharmacy
9 to Bindley Western, Cardinal Wholesale, and AmeriSource Sacramento requesting
10 acquisition and disposition records of Romdel Pharmacy for the period of January 1,
11 1999 to May 30, 2000. Pursuant to this request, the Board also sought records of any
12 and all credit memos or drug transfers to other pharmacies or wholesalers. Review
13 of these records indicated that Romdel had purchased dangerous drugs in the amount
14 of \$1,370,661.26 during the time in which Robert Wayne Blackburn was the
15 pharmacist-in-charge of Romdel Pharmacy.

16 b. On June 14, 2000 and June 21, 2000, a request was made of
17 Romdel and of Robert Wayne Blackburn for all records reflecting acquisition and
18 disposition of drugs for the period January 1, 1999 to May 30, 2000 . These
19 records were to include all invoices, credit memos, prescription logs and all transfers
20 of drugs to other pharmacies, wholesalers and doctors and were requested to be
21 provided within seventy-two (72) hours. On July 21, 2000, respondent pharmacy
22 provided records to the investigator reflecting total purchases of dangerous drugs by
23 Romdel in the amount of \$889,134.03 during the time in which Robert Wayne
24 Blackburn was the pharmacist in charge.³

25 c. The difference between the total amount of sales to Romdel
26

27 3. The records provided by Respondent did not reflect purchases of dangerous drugs during the portion of
28 the audit period for which Robert Wayne Blackburn was not the pharmacist in charge of Romdel (January 1, 1999
through May 5, 1999).

1 by wholesalers (\$1,370, 661.26) and the total amount of purchases documented by
2 Romdel (\$889,134.03) indicates that Romdel failed to provide acquisition records of
3 dangerous drugs of up to \$481,527.23 for the period of time in which Robert Wayne
4 Blackburn was the pharmacist in charge.

5 SECOND CAUSE FOR DISCIPLINE

6 (Failure to Maintain Current Inventory for Dangerous Drugs)

7 20. Respondent Blackburn is subject to disciplinary action pursuant to section
8 4301(o) of the Code for violating section 4081(a) in conjunction with section 1718 of Title 16,
9 California Code of Regulations for failing to keep a complete, accurate, and current inventory or
10 complete accountability of dangerous drugs for three (3) years. The circumstances are as follows:

11 a. On June 16, 2000, letters were sent by the Board of Pharmacy
12 to Bindley Western, Cardinal Wholesale, and AmeriSource Sacramento requesting
13 acquisition and disposition records of Romdel Pharmacy for the period of January
14 1, 1999 to May 30, 2000. Pursuant to this request, the Board also sought records of
15 any and all credit memos or drug transfers to other pharmacies or wholesalers.
16 Review of these records indicated that Romdel had purchased dangerous drugs in the
17 amount of \$1,370,661.26 for the period of time in which Robert Wayne Blackburn
18 was the pharmacist in charge.

19 b. On June 14, 2000 and June 21, 2000, a request was made of
20 Romdel and of Blackburn for all records reflecting acquisition and disposition of
21 drugs for the period January 1, 1999 to May 30, 2000 . These records were to
22 include all invoices, credit memos, prescription logs and all transfer of drugs to other
23 pharmacies, wholesalers and doctors and were requested to be provided within
24 seventy-two (72) hours. On July 21, 2000, respondent pharmacy provided records
25 to the investigator reflecting the total cost of prescription drugs dispensed by Romdel
26 for the period of time in which Robert Wayne Blackburn was the pharmacist in
27 charge to be \$25,240.49.

28 c. The difference between the cost of drugs sold to Romdel by

1 wholesalers (\$1,370,661.26) and the cost of drugs dispensed as documented by
2 Romdel during the time in which Robert Wayne Blackburn was pharmacist in charge
3 (\$25,240.49) when taking into account an estimated inventory of \$7000.00 indicates
4 that Romdel experienced an inventory shortage of up to \$1,338,420.77.

5 THIRD CAUSE FOR DISCIPLINE

6 (Dangerous Drugs and Controlled Substances received by Non-Licensed Personnel)

7 21. Respondent Blackburn is subject to disciplinary action pursuant to sections
8 4300, 4301(j), and 4301(o) of the Code on the grounds of unprofessional conduct for violating
9 section 4059.5(a) in conjunction with Health and Safety Code section 11209 in that Respondent
10 Blackburn allowed non-licensed personnel to receive and sign for delivery of dangerous drugs
11 and controlled substances. The circumstances are as follows:

12 a. From on or around May 6, 1999 through December 7, 1999,
13 Bindley Western, a wholesaler, delivered drugs and controlled substances to
14 Respondent Pharmacy. The delivery slips were signed by non-licensed personnel,
15 acknowledging receipt of the drugs.

16 FOURTH CAUSE FOR DISCIPLINE

17 (Acting as a Wholesaler Without a License)

18 22. Respondent Blackburn is subject to disciplinary action pursuant to sections
19 4300, 4301(j), and 4301(o) of the Code on the grounds of unprofessional conduct for violating
20 section 4160 in that Respondent Blackburn permitted Romdel Pharmacy to act as a wholesaler
21 without first obtaining a wholesale license from the Board of Pharmacy. The circumstances are
22 as follows: From on or around May 10, 1999 through at least March 31, 2000, Romdel Pharmacy
23 acted in the capacity of a wholesaler by selling dangerous drugs to Northern Nevada
24 Pharmaceutical at a time when Romdel Pharmacy did not possess a valid wholesale license
25 issued by the Board of Pharmacy.

26 FIFTH CAUSE FOR DISCIPLINE

27 (Failure to Ensure Compliance With All Laws)

28 23. Respondent Blackburn is subject to disciplinary action pursuant to sections

1 4300, 4301(j) and 4301(o) of the Code on the grounds of unprofessional conduct as follows:
2 From on or around May 6, 1999 through at least June 12, 2000, Respondent failed to comply
3 with his duties under code section 4113(b) in that Romdel Pharmacy was conducted by an
4 unlicensed individual in violation of Business and Professions Code section 41 10.

5 SIXTH CAUSE FOR DISCIPLINE

6 (False Certification)

7 24. Respondent Blackburn is subject to disciplinary action pursuant to sections
8 4300 and 4301(g) of the Code on the grounds of unprofessional conduct as follows: On or
9 around June 12, 2000, Respondent certified under penalty of perjury under the laws of the state
10 of California that he had taken an inventory of all dangerous drugs in Romdel Pharmacy when in
11 fact, he had not taken inventory of the dangerous drugs.

12 PRAYER

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

- 15 1. Revoking or suspending Original Pharmacist License Number RPH
16 30586, issued to Robert Wayne Blackburn;
- 17 2. Ordering Robert Wayne Blackburn, to pay the Board of Pharmacy the
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
19 Professions Code section 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: 2/12/03.

22
23 

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

Complainant

03583110-LA2001AD1246