

1 BILL LOCKYER, Attorney General
of the State of California
2 ANNE HUNTER, State Bar No. 136982
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2114
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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

9
10 In the Matter of the Accusation Against:

Case No. 2456

11 THE DIENNET PHARMACY
dba THE DIENNET PHARMACY
12 9454 Wilshire Blvd, #M6 and Suite #312
Beverly Hills CA 90212
13 Original Pharmacy Permits Nos. PHY 44310 and
PHY 41054

WITHDRAWAL OF ACCUSATION

14 KENT DOUGLAS HAMILTON
6306 Windcrest Drive #2421
15 Plano TX 75024
Pharmacist License No. RPH 50050

16 LYDIA G. ALAORIA
17 367 Baptiste Way
La Canada CA 91011
18 Pharmacist License No. RPH 46938

19 And

20 EVERETT JOSEPH CUNNINGHAM
1517 East Helmick Street
21 Carson CA 90746
Pharmacist License No. 27652

22
23 Respondents.
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1 On or about April 26, 2002, Complainant Patricia F. Harris ("Complainant"), in her
2 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
3 Affairs, filed Accusation No. 2456 against Respondents The Diennet Pharmacy dba The Diennet
4 Pharmacy (Pharmacy Permit Nos. PHY 44310 and 41054), Kent D. Hamilton (Pharmacist
5 License No. RPH 50050), Lydia G. Alaoria (Pharmacist License No. RPH 46938), Everett J.
6 Cunningham (Pharmacist License No. RPH 27652).

7 Complainant, exercising her discretionary authority pursuant to Title 16, California Code
8 of Regulations, Section 1703, and acting on information submitted to her, and in the interest of
9 justice, has determined that good cause exists to withdraw Accusation No. 2456 against
10 Respondents The Diennet Pharmacy, Kent D. Hamilton, Lydia G. Alaoria and Everett J.
11 Cunningham.

12 WHEREFORE, Complainant hereby withdraws Accusation No. 2456, filed on or about
13 April 26, 2002, against Respondents The Diennet Pharmacy, Kent D. Hamilton, Lydia G.
14 Alaoria and Everett J. Cunningham.

15 DATED: 12/5/02

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19 _____
20 PATRICIA F. HARRIS
21 Executive Officer
22 Board of Pharmacy
23 Department of Consumer Affairs
24 State of California
25 Complainant

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMES F. AHERN, State Bar No. 147620
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA, 90013
Telephone: (213) 897-5315
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 2456

11 THE DIENNET PHARMACY
dba THE DIENNET PHARMACY
12 9454 Wilshire Blvd., #M6 and Suite #312
Beverly Hills, CA 90212
13 MARCEL DIENNET, President
and Chief Executive Officer
14 Original Pharmacy Permits Nos. PHY44310 and
PHY41054

ACCUSATION AND PETITION
TO REVOKE PROBATION

15 and

16 KENT DOUGLAS HAMILTON,
17 6306 Windcrest Drive #2421
Plano, TX 75024
18 Original Pharmacist License No. RPH 50050

19 and

20 LYDIA G. ALAORIA
21 1165 North Commonwealth Ave.
Los Angeles, CA 90029
22 Original Pharmacist License No. RPH 46938

23 and

24 EVERTT JOSEPH CUNNINGHAM
25 1517 East Helmick Street
Carson, CA 90746
26 Original Pharmacist License No. RPH 27652

27 Respondents.
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1 Complainant alleges:

2 PARTIES

3 1. Patricia F. Harris ("Complainant") brings this Accusation and Petition to
4 Revoke Probation solely in her official capacity as the Executive Officer of the Board of
5 Pharmacy, Department of Consumer Affairs.

6 2. On or about August 26, 1999, the Board of Pharmacy issued Pharmacy
7 License No. PHY 44310 to The Diennet Pharmacy to do business as The Diennet Pharmacy
8 ("Respondent Pharmacy"). The address of record being 9454 Wilshire Blvd., #M6, Beverly
9 Hills, CA 90212. The corporate officer is Marcel Diennet, President and Chief Executive
10 Officer. The Pharmacist-in-Charge from August 26, 1999 to February 1, 2000 was Kent Douglas
11 Hamilton, RPH 50050; The Pharmacist-in-Charge from February 8, 2000 to May 1, 2001 was
12 Everett Cunningham, RPH 27652; The Pharmacist-in-Charge from July 31, 2001 to August 1,
13 2001 was Chris Eugene Platt, RPH 41579; The Pharmacist-in-Charge since August 1, 2001 is
14 Samar Aziz. Said license was in full force and effect at all relevant times to the charges brought
15 herein and will expire on August 1, 2002, unless renewed. Further, disciplinary action has been
16 taken against the license in Administrative Case No. 1984, In the Matter of the Accusation
17 Against The Diennet Pharmacy, a corp. dba The Diennet Pharmacy.

18 3. On or about April 20, 1998, the Board of Pharmacy issued Pharmacist
19 License No. RPH 50050 to Kent Douglas Hamilton to practice pharmacy in California.
20 ("Respondent Hamilton"). The Pharmacist License was in full force and effect at all times
21 relevant to the charges brought herein and will expire on August 31, 2003, unless renewed.

22 4. On or about March 9, 1994, the Board of Pharmacy issued Pharmacist
23 License No. RPH 46938 to Lydia G. Alaoria ("Respondent Alaoria"). The Pharmacist License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 November 30, 2003, unless renewed.

26 5. On or about March 2, 1972, the Board of Pharmacy issued Pharmacist
27 License No. RPH 27652 to Everett Joseph Cunningham ("Respondent Cunningham"). The
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1 (g) Knowingly making or signing any certificate or other documents that falsely
2 represents the existence or nonexistence of a state of facts.

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

5 (l) The conviction of a crime substantially related to the qualifications, functions,
6 and duties of a licensee under this chapter Chapter 9 (commencing with Section 4000) of the
7 Business and Professions Code. The record of conviction of a violation of Chapter 13
8 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
9 substances or of a violation of the statutes of this state regulating controlled substances or
10 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
11 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
12 The Board may inquire into the circumstances surrounding the commission of the crime, in order
13 to fix the degree of discipline, or in the case of a conviction not involving controlled substances
14 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
15 qualifications, functions, and duties of a licensee under Chapter 9 (commencing with Section
16 4000) of the Business and Professions Code. A plea or verdict of guilty or a conviction
17 following a plea of nolo contendere is deemed to be a conviction within the meaning of this
18 provisions. The Board may take action when the time for appeal has elapsed, or the judgment of
19 conviction has been affirmed on appeal or when an order granting probation is made suspending
20 the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal
21 Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
22 setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

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

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

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1 11. Code section 118(b) provides that the suspension, expiration, or
2 forfeiture by operation of law of a license does not deprive the Board of authority or jurisdiction
3 to institute or continue with disciplinary action against the license or to order suspension or
4 revocation of the license, during the period within which the license may be renewed, restored,
5 reissued or reinstated.

6 12. Section 490 of the Code, states that the Board may suspend or revoke a
7 license when it finds that the licensee has been convicted of a crime, if the crime is substantially
8 related to the qualifications, functions, or duties of that license.

9 13. Title 16, California Code of Regulations, section 1770, states that for the
10 purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division
11 1.5 (commencing with Section 475) of the Business and Professions Code, a crime shall be
12 considered substantially related to the qualifications, functions, or duties of a licensee or
13 registrant if, to a substantial degree, it evidences present or potential unfitness of a licensee or
14 registrant to perform the functions authorized by his license or registration in a manner consistent
15 with the public health, safety or welfare.

16 14. Section 4051 of the Code states:

17 Except as otherwise provided in Chapter 9 (commencing with Section 4000) of
18 the Business and Professions Code, it is unlawful for any person to manufacture, compound,
19 furnish, sell, or dispense any dangerous drug or dangerous device, or to dispense or compound
20 any prescription pursuant to Section 4040 of a prescriber unless he or she is a pharmacist under
21 Chapter 9.

22 15. Section 4333 of the Code states, in pertinent part, that all prescriptions
23 filled by a pharmacy and all other records required by Section 4081 shall be maintained on the
24 premises and available for inspection by authorized officers of the law for a period of at least
25 three years. In cases where the pharmacy discontinues business, these records shall be
26 maintained in a board-licensed facility for at least three years.

27 16. Section 125.3 of the Code states, in pertinent part, that the Board may
28 request the administrative law judge to direct a licentiate found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 CONTROLLED SUBSTANCES

4 17. "Chlördiazepoxide" is the generic name for Librium and is a Schedule
5 IV depressant controlled substance as defined by Health and Safety Code section 11057(d)(5)
6 and is categorized as a "dangerous drug" pursuant to section 4022 of the Business and
7 Professions Code.

8 18. "Diazepam" is the generic name for Valium and is a Schedule IV
9 depressant controlled substance as defined by Health and Safety Code section 11057(d)(8) and is
10 categorized as a "dangerous drug" pursuant to section 4022 of the Business and Professions
11 Code.

12 19. "Diethylpropion" is the generic name for Tenuate and is a Schedule IV
13 stimulant controlled substance as defined by Health and Safety Code section 11057(f)(1) and is
14 categorized as a "dangerous drug" pursuant to section 4022 of the Business and Professions
15 Code.

16 DANGEROUS DRUG

17 20. "Thyroid" is a dangerous drug" pursuant to section 4022 of the Business
18 and Professions Code.

19 FIRST CAUSE FOR DISCIPLINE

20 (Filling Irrational Prescriptions by Non-Pharmacist)

21 21. Section 4051(b) of the Business and Professions Code states:
22 Notwithstanding any other law, a pharmacist may authorize the initiation of a
23 prescription and otherwise provide clinical advice or information or patient consultation from
24 outside a pharmacy premises if all of the following conditions are met:

25 (1) The clinical advice or information consultation is provided either to a health
26 care professional or to a patient of or resident in a licensed acute or care hospital, health care
27 facility, home health agency or hospice.

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1 (2) The pharmacist has access to prescription, patient file, or other relevant
2 medical information for purposes of patient and clinical consultation and advice.

3 (3) Access to the information described in paragraph (2) is secure from
4 unauthorized access and use.

5 22. Section 4333 of the Business and Professions Code states, in pertinent
6 part, that all prescriptions filled by a pharmacy and all other records required by Section 4081
7 shall be maintained on the premises and available for inspection by authorized officers of the law
8 for a period of at least three years. In cases where the pharmacy discontinues business, these
9 records shall be maintained in a board-licensed facility for at least three years.

10 23. Title 16, California Code of Regulations, section 1707.2(a) states that a
11 pharmacist shall provide oral consultation to his or her patient or the patient's agent in all care
12 settings.

13 24. Title 16, California Code of Regulations, section 1793.1 states that only a
14 registered pharmacist, may:

15 (b) Consult with a patient or his or her agent regarding a prescription, either prior
16 to or after dispensing, or regarding any medical information contained in a patient medication
17 record system or patient chart.

18 (c) Identify, evaluate and interpret a prescription.

19 (d) Interpret the clinical data in a patient medication record system or patient
20 chart.

21 (e) Consult with any prescriber, nurse, or other health care professional or
22 authorized agent thereof.

23 (i) Perform all functions which require professional judgment.

24 25. Title 16, California Code of Regulations, section 1707.3 states that prior to
25 consultation as set forth in section 1707.2(a) and (b), a pharmacist shall review a patient's drug
26 therapy and medication record before each prescription drug is delivered. The review shall
27 include screening for severe potential drug therapy problems.

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1 26. Title 16, California Code of Regulations, section 1764 states that no
2 pharmacist shall exhibit, discuss, or reveal the contents of any prescription, the therapeutic effect
3 thereof, the nature, extent, or degree of illness suffered by any patient or any medical information
4 furnished by the prescriber with any person other than the patient or his or her authorized
5 representative, the prescriber or other licensed practitioner then caring for the patient, another
6 licensed pharmacist serving the patient, or a person duly authorized by law to receive such
7 information.

8 27. Title 16, California Code of Regulations, section 1707.1 states that a
9 pharmacy shall maintain medication profiles on all patients who have prescriptions filled in that
10 pharmacy except when the pharmacist has reasonable belief that the patient will not continue to
11 obtain prescription medications from that pharmacy.

12 28. Respondents Diennet, Cunningham and each of them are subject to
13 disciplinary action under sections 4300, 4301, 4333 and 4051(b) of the Code for unprofessional
14 conduct, in conjunction with Title 16, California Code of Regulations, sections 1707.2(a),
15 1793.1(b), 1793.1(c), 1793.1(d), 1793.1(e), 1793.1(i), 1707.3, 1707.1 and 1764, as they relate to:

16 A. Business and Professions Code section 4051(b), Title 16, California Code
17 of Regulations, sections 1707.2, 1793.1(b) 1793.1(c), 1793.1(d) in that on or about April 12,
18 2001, during and inspection of Respondent Diennet's premises, by Inspector Tim Black and
19 Inspector Valerie Knight, it was revealed that Respondents and each of them allowed non-
20 pharmacists to counsel and provide medication information to patients.

21 B. Title 16, California Code of Regulations, section 1707.3, in that on or
22 about April 12, 2001, during and inspection of Respondent Diennet's premises, by Inspector Tim
23 Black and Inspector Valerie Knight, it was revealed that Respondents and each of them did not
24 review patient drug therapy and medication records before each prescription that was delivered.

25 C. Business and Professions Code section 4333 and Title 16, California Code
26 of Regulations section 1764, in that on or about April 12, 2001, during and inspection of
27 Respondent Diennet's premises, by Inspector Tim Black and Inspector Valerie Knight, it was

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1 revealed that Respondents and each of them failed to maintain patient confidentiality and control
2 over patient medical and prescription information.

3 D. Title 16, California Code of Regulations, section 1707.1, in that on or
4 about April 12, 2001, during and inspection of Respondent Diennet's premises, by Inspector Tim
5 Black and Inspector Valerie Knight, it was revealed that Respondents and each of them failed to
6 maintain patient medication profiles.

7 E. Title 16, California Code of Regulations, section 1793.1(e) in that on or
8 about April 12, 2001, during and inspection of Respondent Diennet's premises, by Inspector Tim
9 Black and Inspector Valerie Knight, it was revealed that Respondents and each of them did not
10 consult with Health Care Professionals about Ms. Suess's prescription.

11 F. Title 16, California Code of Regulations, section 1793.1(i) in that on or
12 about April 12, 2001, during and inspection of Respondent Diennet's premises, by Inspector Tim
13 Black and Inspector Valerie Knight, it was revealed that Respondents and each of them allowed
14 non-pharmacists to perform functions that allow professional judgment.

15 SECOND CAUSE FOR DISCIPLINE

16 (Deviating from the Requirements of a Prescription)

17 29. Section 4306.5 of the Business and Professions Code states that
18 unprofessional conduct for a pharmacist may include acts or omissions that involve, in whole or
19 in part the exercise of his or her education, training or experience as a pharmacist, whether or not
20 the act or omission arises in the course of the practice of pharmacy or the ownership,
21 management, administration, or operation of a pharmacy or other entity licensed by the board.

22 30. Section 2242 of the Code states:

23 (b) No licensee shall be found to have committed unprofessional conduct within
24 the meaning of this section, if at the time the drugs were prescribed, dispensed, or furnished, any
25 of the following applies:

26 (1) The licensee was a designated physician and surgeon or podiatrist serving in
27 the absence of the patient's physician and surgeon or podiatrist, as the case may be and if the
28 drugs were prescribed, dispensed or furnished only as necessary to maintain the patient until the

1 return of his or her practitioner, but in any case no longer than 72 hours.

2 (2) The licensee transmitted the order for the drugs to a registered nurse or to a
3 licensed vocational nurse in an inpatient facility, and if both of the following conditions applies:

4 (A) The practitioner had consulted with the registered nurse or licensed vocational
5 nurse who had reviewed the patient's records.

6 (B) The practitioner was designated as the practitioner to serve in the absence of
7 the patient's physician and surgeon or podiatrist, as the case may be.

8 (3) The licensee was a designated practitioner serving in the absence of the
9 patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had
10 utilized the patient's records and ordered the renewal of a medically indicated prescription for an
11 amount not exceeding the original prescription in strength or amount or for more than one
12 refilling.

13 31. Section 11153(a) of the Health and Safety Code, in pertinent part, states
14 that a prescription for a controlled substance shall only be issued for a legitimate medical
15 purpose by an individual practitioner acting in the usual course of his or her professional
16 practice. The responsibility for the proper prescribing and dispensing of controlled substances is
17 upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist
18 who filled the prescription.

19 32. Title 16, California Code of Regulations, section 1761(a) states that no
20 pharmacist shall compound or dispense any prescription which contains any significant error,
21 omission, irregularity, uncertainty, ambiguity, or alteration. Upon receipt of any such
22 prescription, the pharmacist shall contact the prescriber to obtain the information needed to
23 validate the prescription.

24 33. Title 16, California Code of Regulations, section 1716 states that
25 pharmacists shall not deviate from the requirements of a prescription except upon the prior
26 consent of the prescriber or to select the drug product in accordance with Section 4073 of the
27 Business and Professions Code. Nothing in this regulation is intended to prohibit a pharmacist

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1 from exercising commonly accepted pharmaceutical practice in the compounding or dispensing
2 of a prescription.

3 34. Section 11164 of the Health and Safety Code states, in pertinent part, that
4 except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall
5 any person fill, compound, or dispense such a prescription unless it complies with the
6 requirements of this section.

7 (b) Each prescription for a controlled substance classified in Schedule III,
8 IV, or V, or except as authorized by subdivision (c), shall be subject to the following
9 requirements:

10 (1) The prescription shall be signed and dated by the prescriber and shall contain
11 the name of the person for whom the controlled substance is prescribed,, the name and quantity
12 of the controlled substance prescribed, and directions for use. With respect to prescriptions for
13 controlled substances classified in Schedules III and IV, the signature, date, and information
14 required by this paragraph shall be wholly written in ink or indelible pencil in the handwriting of
15 the prescriber.

16 35. Respondents Pharmacy, Cunningham, Alaoria, Hamilton and each of
17 them are subject to disciplinary action under sections 4300, 4301, 4306.5, 2242 of the Business
18 and Professions Code for unprofessional conduct, in conjunction with Health and Safety Code
19 Sections 11153, 11164(b)(1), and Title 16, California Code of Regulations, sections 1761 and
20 1716, as they relate to:

21 A. Business and Professions Code section 4301(f), 4301(j), 4306.5, 2242 and
22 Health and Safety Code Section 11153, in that on or about April 12, 2001, during an inspection
23 of Respondent Pharmacy's premises, by Inspector Tim Black and Inspector Valerie Knight, it
24 was revealed that Respondents and each of them failed to exercise good professional judgment
25 when filling controlled substances not issued in the normal course of professional treatment, and
26 not pursuant to a good faith examination by a physician.

27 B. Title 16, California Code of Regulations, section 1761, in that on or about
28 April 12, 2001, during and inspection of Respondent Diennet's premises, by Inspector Tim Black

1 and Inspector Valerie Knight, it was revealed that Respondents and each of them filled or/and
2 dispensed prescriptions which contained irregularities, uncertainties, ambiguities, and error.

3 C. Title 16, California Code of Regulations, section 1716, in that on or about
4 April 12, 2001, during an inspection of Respondent Diennet's premises, by Inspector Tim Black
5 and Inspector Valerie Knight it was revealed that Respondents and each of them deviated from
6 the requirements of a prescription by compounding prescriptions with 40mg of Thyroid per
7 capsule, rather than 0.04mg of Thyroid per capsule as written by Dr. Mary Jane Bovo in New
8 York, New York. Dr. Bovo's prescriptions were a 90-day supply of medication, she did not
9 transmit the prescriptions to a registered nurse or a licensed vocational nurse in an inpatient
10 facility, nor were the prescriptions renewals of existing prescriptions from the patient's
11 physician.

12 D. Health and Safety Code Section 11164(b)(1), in that on or about April 12,
13 2001, during and inspection of Respondent Diennet's premises, by Inspector Tim Black and
14 Inspector Valerie Knight, it was revealed that Respondents and each of them filled prescriptions
15 for Schedule IV Controlled Substances that were not written in the handwriting of the prescriber.

16 THIRD CAUSE FOR DISCIPLINE

17 (Providing False and Fraudulent Statements)

18 36. Section 651 of the Business and Professions Code states:

19 (a) It is unlawful for any person licensed under this division or under any
20 initiative act referred to in this division to disseminate or cause to be disseminated, any form of
21 public communication containing a false, fraudulent, misleading, or deceptive statement or
22 claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of
23 professional services or furnishing of products in connection with the professional practice or
24 business for which he or she is licensed. A 'public communication' as used in this section
25 includes, but is not limited to, communication by means of mail, television, radio, motion
26 picture, newspaper, book, list or directory of healing arts practitioners. Internet or other
27 electronic communication.

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1 new permit would be subject to any discipline that would have been imposed on Permit No.
2 PHY41054. The new Permit No. PHY 44310 was placed on probation for a period of three (3)
3 years with certain terms and conditions.

4 42. On or about November 17, 1999, Respondent entered into a Stipulation
5 in Settlement and Disciplinary Order (“Probation Order”), In the Matter of the Accusation
6 Against: The Diennet Pharmacy, a corp. dba The Diennet Pharmacy, Case No. 1984, which
7 became effective December 15, 2000. The license (PHY 44310) was revoked. However, the
8 Order for revocation was stayed, and Respondent was placed on probation for a period of three
9 (3) years under special terms and conditions. Attached hereto as Exhibit “B” is the Stipulation in
10 Settlement, the Decision, and the probation Order.

11 **Condition 9B of probation provides as follows:**

12 9B. Respondent shall obey all federal and state laws and regulations
13 substantially related to the practice of pharmacy.

14 **Condition 9I of probation provides as follows:**

15 9I. Respondent, shall, upon or before the effective date of this decision,
16 ensure that all employees involved in permit operations are made aware of all the terms and
17 conditions of probation, either by posting a notice of the conditions of the terms and conditions,
18 circulating such notice, or both. If the notice required by this provision is posted, it shall be
19 posted in a prominent place and shall remain posted throughout probation. Respondent shall
20 ensure that any employee’s hired or used after the effective date of this decision are made aware
21 of all the terms and conditions by posting a notice, circulating a notice, or both.

22 “Employees” as used in this provision includes all full-time, temporary and relief
23 employees and independent contractors employed or hired at anytime during probation.

24 **Condition 9K of probation provides as follows:**

25 9K. If Respondent Pharmacy violates probation in any respect, the Board,
26 after giving Respondent notice and an opportunity to be heard, may revoke probation and carry
27 out the disciplinary order which was stayed. If a Petition to Revoke Probation and any
28 Accusation is filed against Respondent during probation, the Board shall have continuing

1 jurisdiction and the period of probation shall be extended, until the petition to revoke probation is
2 heard and decided.

3 If Respondent has not complied with any term or condition of probation, the
4 Board shall have continuing jurisdiction over Respondent, and probation shall automatically be
5 extended until all the terms and conditions have been met or the Board has taken other action as
6 deemed appropriate to treat the failure to comply as a violation of probation, to terminate
7 probation, and to impose the penalty which was stayed.

8 43. Grounds exist to revoke Respondent Pharmacy's probation and reimpose
9 the order of revocation in that Respondent did not comply with conditions 9B, 9I, and 9K of
10 probation, as follows:

11 A. Respondent has sought and obtained a new license no. 44310, which
12 Respondent is presently operating under, at 9454 Wilshire Blvd. #M6 and Suite 312, Beverly
13 Hills, CA 90212, in violation of condition 9A.

14 B. Respondent has violated state laws and regulations under the Business and
15 Professions Code sections 4000, et seq., Health and Safety Code Sections 11153 and 11164, and
16 Title 16, California Code of Regulations, section 1703, et seq., in violation of condition 9B.

17 C. Respondent has not ensured that all employees involved in permit
18 operation are made aware of all the terms and conditions of probation, in violation of condition
19 9I.

20 D. Respondent has violated probation and is being given another opportunity
21 to be heard and will be subject to revocation and other discipline (condition 9K).

22 PRAYER

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

25 1. Revoking or suspending Original Pharmacy Permit No. PHY 44310,
26 issued to The Diennet Pharmacy;

27 2. Revoking or suspending Pharmacist License No. RPH 27652, issued to
28 Everett Joseph Cunningham;

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3. Revoking or suspending Pharmacist License No. RPH 46938, issued to Lydia G. Alaoria;

4. Revoking or suspending Pharmacist License No. RPH 50050, issued to Kent Douglas Hamilton;

5. Ordering The Diennet Pharmacy , Everett Joseph Cunningham, Lydia G. Alaoria and Kent Douglas Hamilton 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;

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

DATED: 4/26/02

P. J. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

03583110-LA2001AD1951
jz