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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:

12 VIVIAN I. ENGBLOM
13599 Mesa Crest Dr.
Yucaipa, CA 92399

Respondent.

Case No. 2535

OAH No. L-2003070148

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

17 PARTIES

18 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
19 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
20 by Bill Lockyer, Attorney General of the State of California, by Marc D. Greenbaum, Deputy
21 Attorney General.

22 2. Vivian I. Engblom (Respondent) is representing herself this proceeding.

23 3. On or about April 23, 1988, the Board of Pharmacy issued Pharmacist
24 License No. RPH 41516 to Respondent.

25 JURISDICTION

26 4. Accusation No. 2535 was filed before the Board of Pharmacy (Board),
27 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
28 and all other statutorily required documents were properly served on Respondent. Respondent

1 timely filed her Notice of Defense. A copy of Accusation No. 2535 is attached as exhibit A and
2 incorporated herein by reference.

3 ADVISEMENT AND WAIVERS

4 5. Respondent has carefully read, and understands the charges and allegations
5 in Accusation No. 2535. Respondent has also carefully read, and understands the effects of this
6 Stipulated Settlement and Disciplinary Order.

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

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

16 CULPABILITY

17 8. Respondent admits the truth of each allegation in Accusation No. 2535.

18 9. Respondent agrees that her Pharmacist License is subject to discipline and
19 she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
20 Order below.

21 RESERVATION

22 10. The admissions made by Respondent herein are only for the purposes of
23 this proceeding, or any other proceedings in which the Board of Pharmacy or other professional
24 licensing agency is involved, and shall not be admissible in any other criminal or civil
25 proceeding.

26 CONTINGENCY

27 11. This stipulation shall be subject to approval by the Board of Pharmacy.
28 Respondent understands and agrees that counsel for Complainant and the staff of the Board of

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order.
I understand the stipulation and the effect it will have on my 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: 2/17/04


VIVIANI ENGBLOM
Respondent

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: 2/20/04

BILL LOCKYER, Attorney General
of the State of California


MARC D. GREENBAUM
Deputy Attorney General

Attorneys for Complainant

DOJ Docket/Matter ID Number: 03583110-LA2002AD0766 *ff*

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DECISION AND ORDER

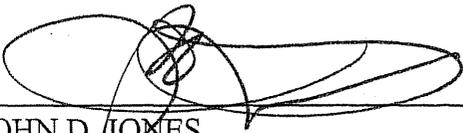
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 25, 2004.

It is so ORDERED March 26, 2004.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Exhibit A
Accusation No. 2535

1 BILL LOCKYER, Attorney General
of the State of California
2 MARC D. GREENBAUM, State Bar No. 138213
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3 California Department of Justice
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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. 2535

11 VIVIAN I. ENGBLOM
12 13599 Mesa Crest Dr.
Yucaipa, CA 92399

A C C U S A T I O N

13 Pharmacist License No. RPH 41516

14 Respondent.
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16 Complainant alleges:

17 PARTIES

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

21 2: On or about April 23, 1988, the Board of Pharmacy issued Pharmacist
22 License No. RPH 41516 to Vivian I. Engblom, RPH ("Respondent"). The Pharmacist License
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 September 30, 2003, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Pharmacy ("Board"), under
27 the authority of the following sections of the Business and Professions Code ("Code").

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

6 5. Section 4300 of the Code provides, in pertinent part, that every license
7 issued by the Board is subject to discipline, including suspension or revocation.

8 6. Section 4301 of the Code states:

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

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

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

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

20 "(l) The conviction of a crime substantially related to the qualifications, functions,
21 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
22 (commencing with section 801) of Title 21 of the United States Code regulating controlled
23 substances or of a violation of the statutes of this state regulating controlled substances or
24 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
25 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
26 The Board may inquire into the circumstances surrounding the commission of the crime, in order
27 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
28 or dangerous drugs, to determine if the conviction is of an offense substantially related to the

1 qualifications, functions, and duties, of a licensee under this chapter. A plea or verdict of guilty
2 or a conviction following a plea of nolo contendere is deemed to be a conviction within the
3 meaning of this provision. The Board may take action when the time for appeal has elapsed, or
4 the judgment of conviction has been affirmed on appeal or when an order granting probation is
5 made suspending the imposition of sentence, irrespective of a subsequent order under Section
6 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a
7 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information
8 or indictment.

9 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
10 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
11 applicable federal and state laws and regulations governing pharmacy, including regulations
12 established by the board.

13 "(q) Engaging in any conduct that subverts or attempts to subvert an investigation
14 of the board."

15 7. Section 490 of the Code states:
16 "A Board may suspend or revoke a license on the ground that the licensee has
17 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
18 duties of the business or profession for which the license was issued, or the ground of knowingly
19 making a false statement of fact required to be revealed in an application for such license. A
20 conviction within the meaning of this section means a plea or verdict of guilty or a conviction
21 following a plea of nolo contendere. Any action which a Board is permitted to take following the
22 establishment of a conviction may be taken when the time for appeal has elapsed, or the
23 judgment of conviction has been affirmed on appeal, or when an order granting probation is
24 made suspending the imposition of sentence, irrespective of a subsequent order under the
25 provisions of Section 1203.4 of the Penal Code."

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1 8. Section 4059 of the Code provides, in pertinent part, that a person may
2 not furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,
3 optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the
4 prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

5 9. Section 4060 of the Code states:

6 "No person shall possess any controlled substance, except that furnished to a
7 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished
8 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse
9 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This
10 section shall not apply to the possession of any controlled substance by a manufacturer,
11 wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse
12 practitioner, or physician assistant, when in stock in containers correctly labeled with the name
13 and address of the supplier or producer."

14 10. Section 4081, subdivisions (a) of the Code states:

15 "All records of manufacture and of sale, acquisition, or disposition of dangerous
16 drugs or dangerous devices shall be at all times during business hours open to inspection by
17 authorized officers of the law, and shall be preserved for at least three years from the date of
18 making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy,
19 veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic,
20 hospital, institution, or establishment holding a currently valid and unrevoked certificate, license,
21 permit, registration, or exemption under Division 2 (commencing with Section 1200) of the
22 Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the
23 Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices."

24 11. Section 4323 of the Code states:

25 "Every person who, in order to obtain any drug, falsely represents himself or
26 herself to be a physician or other person who can lawfully prescribe the drug, or falsely represent
27 that he or she is acting on behalf of a person who can lawfully prescribe the drug, in a telephone
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1 or electronic communication with a pharmacist, shall be punished by imprisonment in the county
2 jail for not more than one year."

3 12. Section 4324, subdivision (a) of the Code states:

4 "Every person who signs the name of another, or of a fictitious person, or falsely
5 makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription
6 for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment
7 in the state prison, or by imprisonment in the county jail for not more than one year."

8 13. Section 11150 of the Health and Safety Code provides, in pertinent part:

9 No person other than a physician, dentist, podiatrist, veterinarian shall write or
10 issue a prescription.

11 14. Section 11157 of the Health and Safety Code provides, in pertinent part:

12 No person shall issue a prescription that is false or fictitious in any respect.

13 15. Section 11173(a) of the Health and Safety Code states:

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

17 16. California Code of Regulations, title 16, section 1770, states that for the
18 purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division
19 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
20 considered substantially related to the qualifications, functions or duties of a licensee or
21 registrant if to a substantial degree it evidences present or potential unfitness of a licensee or
22 registrant to perform the functions authorized by his license or registration in a manner consistent
23 with the public health, safety, or welfare.

24 17. Section 125.3 of the Code states, 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 and enforcement of the case.

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1 firearm), a misdemeanor, in the Superior Court of California, County of San Bernardino,
2 Redlands Judicial District, entitled *People v. Vivian Ingrid Engblom*, Case No. MRE013128.

3 B. The circumstances surrounding the conviction are that on or about August
4 18, 2002, Respondent unlawfully, in the presence of another, drew and exhibited a firearm in a
5 rude, angry and threatening manner, and used the firearm in a fight and quarrel.

6 SECOND CAUSE FOR DISCIPLINE

7 (Furnishing and Possessing Controlled Substances)

8 31. Respondent is subject to disciplinary action under section 4059(a) and
9 4060 of the Code, for unprofessional conduct, in that Respondent furnished and possessed
10 controlled substances without a prescription or prescriber authorization, as more fully set forth in
11 paragraph 32 below.

12 THIRD CAUSE FOR DISCIPLINE

13 (Fraudulently Wrote, Issued, and Ordered Prescriptions)

14 32. Respondent is subject to disciplinary action under sections 4301(f), 4323,
15 and 4324 of the Code, in that Respondent fraudulently wrote, issued, and ordered prescriptions
16 for dangerous drugs and controlled substances for herself, without a license to prescribe. More
17 specifically, Respondent:

18 a. Admitted that she forged prescriptions on her husband's prescription pad,
19 dated October 8, 2001, two were written for herself and the third for Tyra Engblom, which were
20 filled at Wal-Mart Pharmacy in Redlands.

21 b. Admitted that all prescriptions (approximately 29) that she obtained at
22 Wal-Mart Pharmacy in Redlands, under the name of Dr. C.C., M.D., were forged by her.

23 c. Admitted that she phoned in a prescription transfer request on March 13,
24 2002 for a prescription for Zombig, from a store in the City of San Bernardino to the Wal-Mart
25 Pharmacy in Redlands.

26 d. Admitted that she also phoned in a prescription for Xanax with a refill of
27 four times, in the name of Tyra Engblom, dated April 26, 2002 to the Wal-Mart Pharmacy in
28 Redlands.

1 e. When Respondent was asked why she did this, Respondent said that she
2 was sick at the time and desperate for medication.

3 FOURTH CAUSE FOR DISCIPLINE

4 (Falsely Represented Herself as a Physician)

5 33. Respondent is subject to disciplinary action under section 4301(g) of the
6 Code, for violating Health and Safety Code section 11173(a), in that Respondent falsely
7 represented that she was acting on behalf of her husband, Dr. C.C., M.D., when she removed and
8 signed for controlled substances from San Gorgonio Hospital Pharmacy.

9 FIFTH CAUSE FOR DISCIPLINE

10 (Removal of Documents to Avoid Prosecution)

11 34. Respondent is subject to disciplinary action under section 4301(q) and
12 4081(a) of the Code, in that Respondent removed the invoice forms of the controlled substances
13 that she took from San Gorgonio Hospital Pharmacy to avoid prosecution.

14 SIXTH CAUSE FOR DISCIPLINE

15 (Violated State and Federal Statutes)

16 35. Respondent is subject to disciplinary action under section 4301(j) and
17 4301(o) of the Code, for violating Health and Safety Code sections 11150 and 11157, in that
18 Respondent violated state and federal statutes related to the practice of pharmacy by fraudulently
19 prescribing, issuing, and ordering controlled substances and dangerous drugs for herself, as more
20 fully set forth in paragraphs 31 and 34 above.

21 PRAYER

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

24 1. Revoking or suspending Pharmacist License No. RPH 41516, issued to
25 Vivian I. Engblom, RPH;

26 2. Ordering Vivian I. Engblom, RPH to pay the Board of Pharmacy the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3;

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

DATED: 3/24/03

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

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