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

In the Matter of the Accusation Against: GRACE TERESA LAM P.O. Box 8523 Long Beach, CA 90808 Pharmacist License No. RPH 29187 Respondent.	Case No. 2927 OAH No. L2006100726 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

DECISION AND ORDER

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

This Decision shall become effective on May 30, 2007.

It is so ORDERED April 30, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
WILLIAM POWERS
Board President

BILL LOCKYER, Attorney General
of the State of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General
LINDA L. SUN, State Bar No. 207108
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300 So. Spring Street, Suite 1702
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Attorneys for Complainant

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

In the Matter of the Accusation Against: GRACE TERESA LAM P.O. Box 8523 Long Beach, CA 90808 Pharmacist License No. RPH 29187 Respondent.	Case No. 2927 OAH No. L2006100726 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Virginia K. Herold (Complainant) is the Interim Executive Officer of the Board of Pharmacy (Board). She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Linda L. Sun, Deputy Attorney General.

2. Respondent Grace Teresa Lam (Respondent) is represented in this proceeding by attorney Benjamin Margolis, Esq., whose address is 1387 Monument Street, Pacific Palisades, CA 90272-2544.

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3. On or about July 17, 1974, the Board issued Pharmacist License No. RPH 29187 to Respondent. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2927 and will expire on December 31, 2007, unless renewed.

JURISDICTION

4. Accusation No. 2927 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 19, 2006. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2927 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2927. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 2927, if proven at a hearing, constitute cause for imposing discipline upon her Pharmacist License.

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9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest those charges.

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

CONTINGENCY

11. This Stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

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

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 29187 issued to Respondent Grace Teresa Lam is revoked. However, the revocation is stayed and Respondent is placed on five (5) years probation on the following terms and conditions.

1. **Obey All Laws.** Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state and federal agency which involves Respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or controlled substance.

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

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

4. **Cooperation with Board Staff.** Respondent shall cooperate with the Board's inspectional program and in the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of her probation. Failure to comply shall be considered a violation of probation.

5. **Continuing Education.** Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

6. **Notice to Employers.** Respondent shall notify all present and prospective employers of the decision in Case Number 2927 and the terms, conditions and restrictions imposed on Respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause her direct supervisor, pharmacist-in-charge and/or owner to report to the Board in writing acknowledging the employer has read the decision in Case Number 2927.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy of the and terms conditions of the decision in Case Number 2927 in advance of the Respondent commencing work at each pharmacy.

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

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

8. **Reimbursement of Board Costs.** Respondent shall pay to the Board its costs of investigation and prosecution in the amount of eight thousand one hundred dollars ($8,100). Respondent shall be allowed to make quarterly payments during the period of probation.

The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility to reimburse the Board its costs of investigation and prosecution.

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

10. **Status of License**. Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

If Respondent's license expires or is canceled by operation of law or otherwise, upon renewal or reapplication, Respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

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

Upon acceptance of the surrender, Respondent shall relinquish her pocket license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

12. **Notification of Employment/Mailing Address Change.** Respondent shall notify the Board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner and work schedule if known. Respondent shall notify the Board in

writing within 10 days of a change in name, mailing address or phone number.

13. **Tolling of Probation.** Should Respondent, regardless of residency, for any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in California, Respondent must notify the Board in writing within 10 days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for Respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three years.

"Cessation of practice" means any period of time exceeding 30 days in which Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of the Business and Professions Code.

14. **Violation of Probation.** If Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided.

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

15. **Completion of Probation.** Upon successful completion of probation, Respondent's license will be fully restored.

16. **Rehabilitation Program - Pharmacists Recovery Program (PRP).** Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists Recovery Program for evaluation and shall successfully participate in and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP

and as approved by the Board. The costs for PRP participation shall be borne by the Respondent.

If Respondent is currently enrolled in the PRP, said participation is now mandatory and is no longer considered a self-referral under Business and Professions Code section 4363, as of the effective date of this decision. Respondent shall successfully participate in and complete her current contract and any subsequent addendums with the PRP. Probation shall be automatically extended until Respondent successfully completes her treatment contract. Any person terminated from the program shall be automatically suspended upon notice by the Board. Respondent may not resume the practice of pharmacy until notified by the Board in writing. The Board shall retain jurisdiction to institute action to terminate probation for any violation of this term.

The parties agree that after one year in the PRP, the Board will make an evaluation of Respondent to determine whether continued participation is necessary. If not, Respondent shall be relieved of this condition or probation and the probationary period shall be modified from five (5) years to three (3) years.

17. **Random Drug Screening.** Respondent, at her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board. The length of time shall be for the entire probation period and the frequency of testing will be determined by the Board. At all times Respondent shall fully cooperate with the Board, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as directed shall constitute a violation of probation. Any confirmed positive drug test shall result in the immediate suspension of practice by Respondent. Respondent may not resume the practice of pharmacy until notified by the Board in writing.

18. **Abstain from Drugs and Alcohol Use.** Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed

practitioner as part of a documented medical treatment. Upon request of the Board, Respondent shall provide documentation from the licensed practitioner that the prescription was legitimately issued and is a necessary part of the treatment of the Respondent.

19. **Supervised Practice.** Respondent shall practice only under the supervision of a pharmacist not on probation with the Board. Respondent shall not practice until the supervisor is approved by the Board. The supervision shall be, as required by the Board, either:

Continuous - 75% to 100% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

Daily Review - Supervisor's review of probationer's daily activities within 24 hours

Within 30 days of the effective date of this decision, Respondent shall have her supervisor submit notification to the Board in writing stating the supervisor has read the decision in Case Number 2927 and is familiar with the level of supervision as determined by the Board.

If Respondent changes employment, Respondent shall have her new supervisor, within 15 days after employment commences, submit notification to the Board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in Case Number 2927 and is familiar with the level of supervision as determined by the Board.

Within 10 days of leaving employment, Respondent shall notify the Board in writing.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Benjamin Margolis. 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: 12-26-2006

GRACE TERESA LAM
Respondent

I have read and fully discussed with Respondent Grace Teresa Lam the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12-27-2006

BENJAMIN MARGOLIS
Attorney for Respondent

ENDORSEMENT

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

DATED: 1/2/07

BILL LOCKYER, Attorney General
of the State of California

GLORIA A. BARRIOS
Supervising Deputy Attorney General

for LINDA L. SUN
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2005600691
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Exhibit A

Accusation No. 2927

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

In the Matter of the Accusation Against: GRACE TERESA LAM P.O. Box 8523 Long Beach, CA 90808 Pharmacist License No. RPH 29187 Respondent.	Case No. 2927 **ACCUSATION**

Complainant alleges:

PARTIES

1. Virginia K. Herold (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

2. On or about July 17, 1974, the Board issued Pharmacist License No. RPH 29187 to Grace Teresa Lam (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2007, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

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

6. Section 4301 of the Code states:

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

. . . .

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

. . . .

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

. . . .

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

7. Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse

practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

"Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, or a physician assistant to order his or her own stock of dangerous drugs and devices."

8. Section 4081 of the Code, subdivision (a) states:

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

9. Health and Safety Code section 11158, subdivision (a) states:

"Except as provided in Section 11159 or in subdivision (b) of this section, no controlled substance classified in Schedule II shall be dispensed without a prescription meeting the requirements of this chapter. Except as provided in Section 11159 or when dispensed directly to an ultimate user by a practitioner, other than a pharmacist or pharmacy, no controlled substance classified in Schedule III, IV, or V may be dispensed without a prescription meeting the requirements of this chapter."

10. Health and Safety Code section 11173, subdivision (a) states:

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

11. California Code of Regulations, title 16, section 1718, states:

"'Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

"The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory."

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

13. CONTROLLED SUBSTANCES

A. "Darvocet" is the brand name for Propoxyphene with Acetaminophen. It is a Schedule IV controlled substance, as defined by Health and Safety Code section 11057, subdivision (c)(2) and is categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

B. "Tylenol with Codeine" is the brand name for Acetaminophen with Codeine. It is Schedule III controlled substance, as defined by Health and Safety Code section 11056, subdivision (e)(2) and is categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

C. "Vicodin" is the brand name for Hydrocodone with Acetaminophen. It is Schedule III controlled substance, as defined by Health and Safety Code section 11056, subdivision (e)(4) and is categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

D. "Vicodin ES" is the brand name for Hydrocodone with Acetaminophen. It is Schedule III controlled substance, as defined by Health and Safety Code section 11056, subdivision (e)(4) and is categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

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E. "Xanax" is the brand name for Alprazolam. It is Schedule IV controlled substance, as defined by Health and Safety Code section 11057, subdivision (d)(1) and is categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate Records)

14. Respondent is subject to disciplinary action under sections 4300, 4301 subdivisions (j) and (o) of the Code, on the grounds of unprofessional conduct, for violating Code section 4081, subdivision (a) and California Code of Regulations, title 16, section 1718, in that from on or about January 1, 2004 to October 27, 2004, Respondent, as the pharmacist-in-charge at Suburban Medical Center, failed to maintain accurate records for dangerous drugs, including, but not limited to, Hydrocodone (Vicodin) 5/500, Hydrocodone 7.5/750, Acetaminophen (Tylenol) with Codeine 30 mg., and Propoxyphene with Acetaminophen (Darvocet) 100 mg.

SECOND CAUSE FOR DISCIPLINE

(Dishonest Acts)

15. Respondent is subject to disciplinary action under sections 4300, 4301 subdivision (f) of the Code, on the grounds of unprofessional conduct, in that from in or about October 2004, Respondent, as the pharmacist-in-charge at Suburban Medical Center, committed dishonest acts when she removed about 176 vials of influenza vaccines from her work place without authorization, and returned only about 160 vials upon request.

THIRD CAUSE FOR DISCIPLINE

(Possess/Dispense Controlled Substances Without a Prescription)

16. Respondent is subject to disciplinary action under sections 4300, 4301 subdivisions (j), (o), and 4060 of the Code, for violating Health and Safety Code section 11158, subdivision (a), in that from on or about September 8, 2004 to October 8, 2004, Respondent, as the pharmacist-in-charge at Suburban Medical Center, possessed and/or dispensed controlled substances, including, but not limited to, Hydrocodone 5/500, Hydrocodone 7.5/750, Acetaminophen with Codeine 30 mg., and Propoxyphene with Acetaminophen 100 mg., without

prescriptions or authorization to do so.

FOURTH CAUSE FOR DISCIPLINE

(Obtain Controlled Substances by Fraud)

17. Respondent is subject to disciplinary action under sections 4300, 4301 subdivisions (f) and (o) of the Code, for violating Health and Safety Code section 11173, subdivision (a), in that from on or about September 8, 2004 to October 8, 2004, Respondent, as the pharmacist-in-charge at Suburban Medical Center, obtained controlled substances including, but not limited to, Hydrocodone 5/500, Hydrocodone 7.5/750, Acetaminophen with Codeine 30 mg., and Propoxyphene with Acetaminophen 100 mg., from Suburban Medical Center by fraud, deceit, misrepresentation, or subterfuge, or by the concealment of a material fact.

PRAYER

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

1. Revoking or suspending Pharmacist License No. RPH 29187, issued to Grace Teresa Lam;

2. Ordering Grace Teresa Lam to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 9/7/06

VIRGINIA K. HEROLD
Interim Executive Officer
Board of Pharmacy
State of California
Complainant

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jz (5/3/06)