

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

In the Matter of the Accusation Against:

Case No. 3101

**QUE BUU**  
10151 Tyler Ct.  
Westminster, CA 92683

Original Pharmacy Technician  
Registration No. RPH 45364

Respondent.

**DECISION AND ORDER**

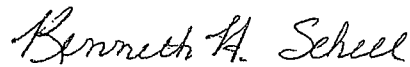
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 8, 2010.

It is so ORDERED on March 9, 2010.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



\_\_\_\_\_  
KENNETH H. SCHELL  
Board President

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 BEN E. JOHNSON  
Deputy Attorney General  
4 State Bar No. 84406  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2195  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:  
12  
13 **QUE BUU**  
**10151 TYLER CT**  
14 **WESTMINSTER, CA 92683**  
**Pharmacy No. RPH 45364**  
15 Respondent.

Case No. 3101

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

16  
17 In the interest of a prompt and speedy resolution of this matter, consistent with the public  
18 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs  
19 the parties hereby agree to the following Stipulated Surrender of License and Order which will be  
20 submitted to the Board for approval and adoption as the final disposition of the Accusation solely  
21 with respect to Que Buu.

22 PARTIES

23 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
24 She brought this action solely in her official capacity and is represented in this matter by Edmund  
25 G. Brown Jr., Attorney General of the State of California, by Ben E. Johnson, Deputy Attorney  
26 General.

27 2. Que Buu (Respondent) is represented in this proceeding by attorney Stanley  
28 Friedman, whose address is 445 South Figueroa Street, 27th Floor, Los Angeles, CA 90071.



1 would constitute cause for discipline. Respondent hereby gives up his right to contest that cause  
2 for discipline exists based on those charges.

3 9. Respondent understands that by signing this stipulation he enables the Board to issue  
4 an order accepting the surrender of his Pharmacist License without further process.

5 RESERVATION

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

10 CONTINGENCY

11 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent  
12 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may  
13 communicate directly with the Board regarding this stipulation and surrender, without notice to or  
14 participation by Respondent or his counsel. By signing the stipulation, Respondent understands  
15 and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the  
16 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its  
17 Decision and Order, the Stipulated Surrender of License and Order shall be of no force or effect,  
18 except for this paragraph, it shall be inadmissible in any legal action between the parties, and the  
19 Board shall not be disqualified from further action by having considered this matter.

20 12. The parties understand and agree that facsimile copies of this Stipulated Surrender of  
21 License and Order, including facsimile signatures thereto, shall have the same force and effect as  
22 the originals.

23 13. This Stipulated Surrender of License and Order is intended by the parties to be an  
24 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
25 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
26 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
27 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
28 executed by an authorized representative of each of the parties.

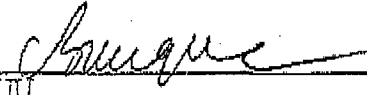


1 20. Respondent shall pay the Board its costs of investigation and enforcement in the  
2 amount of \$8,255.00 prior to issuance of a new or reinstated license.

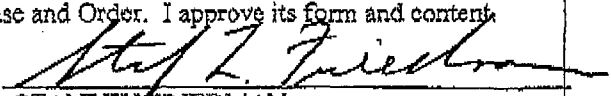
3 21. Respondent further understands and agrees that as a result of this stipulation he must  
4 wait three (3) years after the effective date of the Decision and Order before he submits an  
5 application for either reinstatement or a new license.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Surrender of License and Order and have fully  
8 discussed it with my attorney, Stanley Friedman. I understand the stipulation and the effect it will  
9 have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order  
10 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
11 Board of Pharmacy.

12 DATED: December 22/09   
13 QUE BUU  
14 Respondent

15 I have read and fully discussed with Que Buu the terms and conditions and other matters  
16 contained in this Stipulated Surrender of License and Order. I approve its form and content.

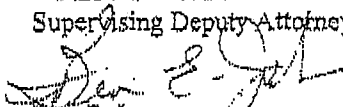
17 DATED: December 22, 2009   
18 STANLEY FRIEDMAN  
19 Attorney for Respondent

20 ENDORSEMENT

21 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
22 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

23 Dated: December 21, 2009

24 Respectfully submitted,  
25 EDMUND G. BROWN JR.  
26 Attorney General of California  
27 JAMES M. LEDAKIS  
28 Supervising Deputy Attorney General

  
BEN E. JOHNSON  
Deputy Attorney General  
Attorneys for Complainant



**Exhibit A**

**Accusation No. 3101**



1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JAMES LEDAKIS  
Supervising Deputy Attorney General  
3 SUSAN FITZGERALD, State Bar No. 112278  
Deputy Attorney General  
4 California Department of Justice  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
6 P.O. Box 85266  
San Diego, CA 92186-5266  
7 Telephone: (619) 645-2066  
Facsimile: (619) 645-2061  
8  
Attorneys for Complainant

10 **BEFORE THE**  
11 **BOARD OF PHARMACY**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 3101

14 LE THUY TROUNG  
dba PACIFIC PHARMACY  
15 9898 Bolsa Avenue  
Westminster, CA 92683  
16 Original Pharmacy Permit No. PHY 40567  
17 and  
18 QUE BUU  
19 10151 Tyler Ct  
Westminster, CA 92683  
20 Pharmacist License No. RPH 45364  
21  
22 Respondents.

**ACCUSATION**

23 Complainant alleges:

24 PARTIES

- 25 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
26 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
27 2. On or about January 11, 1995, the Board of Pharmacy issued Original Pharmacy  
28 Permit Number PHY 40567 to Le Thuy Troung, dba Pacific Pharmacy (Pacific Pharmacy). The

1 original pharmacy permit was in full force and effect at all times relevant to the charges brought  
2 herein and will expire on January 1, 2008, unless renewed.

3 3. On or about July 6, 1992, the Board of Pharmacy issued Pharmacist License  
4 Number RPH 45364 to Que Buu (Buu). The pharmacist license was in full force and effect at all  
5 times relevant to the charges brought herein and will expire on December 31, 2007, unless  
6 renewed. At all times relevant herein, Buu was the pharmacist-in-charge (PIC) for Pacific  
7 Pharmacy.

8 JURISDICTION

9 4. This Accusation is brought before the Board of Pharmacy (Board), Department of  
10 Consumer Affairs, under the authority of the following laws:

11 A. Section 4300 of the Code provides that every license issued by the Board may be  
12 suspended or revoked.

13 B. Section 4301 of the Code states in pertinent part:

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

18 ". . . .

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

22 ". . . .

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

25 ". . . .

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

1 the board or by any other state or federal regulatory agency.

2 "...."

3 C. Section 4059 of the Code states in pertinent part:

4 "(a) A person may not furnish any dangerous drug, except upon prescription. . .

5 "(b) This section does not apply to the furnishing of any dangerous drug or dangerous

6 device by a manufacturer, wholesaler, or pharmacy to each other or to a physician, dentist,

7 podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7., or to a

8 laboratory under sales and purchase records that correctly give the date, the names and addresses

9 of the supplier and the buyer, the drug or device, and its quantity. This section does not apply to

10 the furnishing of any dangerous device by a manufacturer, wholesaler, or pharmacy to a physical

11 therapist acting within the scope of his or her license under sales and purchase records that

12 correctly provide the date the device is provided, the names and addresses of the supplier and the

13 buyer, a description of the device, and the quantity supplied.

14 "...."

15 D. Section 4081 of the Code states in pertinent part:

16 "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs

17 or dangerous devices shall be at all times during business hours open to inspection by authorized

18 officers of the law, and shall be preserved for at least three years from the date of making. A

19 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary

20 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,

21 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,

22 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and

23 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and

24 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

25 "...."

26 E. Section 4113 of the Code states in pertinent part:

27 "...."

28 ///

1           “(b) the pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all  
2 state and federal laws and regulations pertaining to the practice of pharmacy.

3           “....”

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

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

11          5.       This Accusation also refers to the following titles and sections of the California  
12 Code of Regulations (CCR):

13          A.       Title 16, CCR section 1718, states:

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

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

19          B.       Title 16, CCR section 1717 states in pertinent part:

20                “....

21                “(e) A pharmacist may transfer a prescription for Schedule III, IV or V controlled  
22 substances to another pharmacy for refill purposes in accordance with Title 21, Code of Federal  
23 Regulations, section 1306.26.

24                Prescriptions for other dangerous drugs which are not controlled substances may also be  
25 transferred by direct communication between pharmacists or by the receiving pharmacist's  
26 access to prescriptions or electronic files that have been created or verified by a pharmacist at the  
27 transferring pharmacy. The receiving pharmacist shall create a written prescription; identifying it  
28 as a transferred prescription; and record the date of transfer and the original prescription number.

1 When a prescription transfer is accomplished via direct access by the receiving pharmacist, the  
2 receiving pharmacist shall notify the transferring pharmacy of the transfer. A pharmacist at the  
3 transferring pharmacy shall then assure that there is a record of the prescription as having been  
4 transferred, and the date of transfer. Each pharmacy shall maintain inventory accountability and  
5 pharmacist accountability and dispense in accordance with the provisions of section 1716 of this  
6 Division. Information maintained by each pharmacy shall at least include:

7 (1) Identification of pharmacist(s) transferring information;

8 (2) Name and identification code or address of the pharmacy from which the prescription  
9 was received or to which the prescription was transferred, as appropriate;

10 (3) Original date and last dispensing date;

11 (4) Number of refills and date originally authorized;

12 (5) Number of refills remaining but not dispensed;

13 (6) Number of refills transferred.

14 “(f) The pharmacy must have written procedures that identify each individual pharmacist  
15 responsible for the filling of a prescription and a corresponding entry of information into an  
16 automated data processing system, or a manual record system, and the pharmacist shall create in  
17 his/her handwriting or through hand-initializing a record of such filling, not later than the  
18 beginning of the pharmacy's next operating day. Such record shall be maintained for at least  
19 three years.”

20 C. Title 22, CCR section 51501 states in pertinent part:

21 “....

22 “(d) No provider shall submit claims to the Medi-Cal program using any provider  
23 number other than that issued to the provider by the Department.

24 “....”

25 D. Title 22, CCR section 51484 states:

26 “ No provider shall bill or submit a claim for or on behalf of any provider who has been  
27 suspended from participation in the California Medical Assistance Program, for any services  
28 rendered in whole or in part by any such suspended provider during the term of such

1 suspension.”

2  
3 CHARGES AND ALLEGATIONS

4 6. “CalOptima” is the name of an integrated health care system that administers  
5 health insurance programs for Orange County, California children, low income families, and  
6 persons with disabilities. It is a public/private partnership authorized by federal law to  
7 administer Medi-Cal benefits within a defined geographic area.

8 7. Only those issued provider numbers by the California Medi-Cal program may  
9 submit bills or claims to CalOptima for reimbursement.

10 8. Orange Pharmacy is a Board licensed pharmacy in Westminster, California. It  
11 was a registered provider for the CalOptima program but as of at least August 2005 was no  
12 longer a provider.

13 9. Respondent Pacific Pharmacy is also located in Westminster, California. It was  
14 and is a registered provider for the CalOptima program.

15 10. Between approximately August 8, 2005 and October 31, 2006, Pacific Pharmacy  
16 billed CalOptima for \$149,230.00 worth of prescription claims not for it but for Orange  
17 Pharmacy, which could no longer legally bill CalOptima. Pacific Pharmacy and Buu knew that  
18 Orange Pharmacy was no longer a provider legally able to bill CalOptima. During the above  
19 period of time, 38% of Pacific Pharmacy’s total billing to CalOptima was actually for Orange  
20 Pharmacy.

21 11. During the above period, Pacific Pharmacy and Orange Pharmacy transferred  
22 dangerous drugs between each using a “Borrowed and Purchased” log that did not meet  
23 pharmacy law requirements.

24 12. During the above period, Pacific Pharmacy failed to maintain complete  
25 accountability for dangerous drugs.

26 FIRST CAUSE FOR DISCIPLINE

27 (Unprofessional Conduct: Dishonesty, Fraud or Deceit)

28 13. Respondents Pacific Pharmacy and PIC Buu are each subject to disciplinary

1 action under section 4301(f) for dishonesty and fraud in that they aided and abetted Orange  
2 Pharmacy to submit claims to CalOptima that were unlawful because Orange Pharmacy was no  
3 longer a CalOptima provider at the times at issue and Pacific Pharmacy and Buu knew this, as  
4 more particularly alleged above and incorporated here by reference.

5 SECOND CAUSE FOR DISCIPLINE

6 (Unprofessional Conduct: Violation of Board Statutes)

7 14. Respondents Pacific Pharmacy and PIC Buu are each subject to disciplinary  
8 action under section 4301(j) in conjunction with 4059 in that the transfer of drugs between  
9 Respondent Pharmacy and Orange Pharmacy did not identify, or adequately identify, the  
10 necessary information required by Code section 4059 for purchase and sales, as more  
11 particularly alleged above and incorporated here by reference.

12 THIRD CAUSE FOR DISCIPLINE

13 (Unprofessional Conduct: Violation of Board Statutes)

14 15. Respondents Pacific Pharmacy and PIC Buu are subject to disciplinary action  
15 under section 4301(j) in conjunction with section 4081 for failure to keep a current inventory due  
16 to their non-existent or inadequate record keeping with regard to the drug transfers with Orange  
17 Pharmacy, as more particularly alleged above and incorporated here by reference.

18 FOURTH CAUSE FOR DISCIPLINE

19 (Unprofessional Conduct: Violation of Board Regulation)

20 16. Respondents Pacific Pharmacy and PIC Buu are subject to disciplinary action  
21 under section 4301(j) in conjunction with CCR section 1718 for failure to maintain complete  
22 accountability of dangerous drugs due to their non-existent or inadequate record keeping with  
23 regard to the drug transfers with Orange Pharmacy, as more particularly alleged above and  
24 incorporated here by reference.

25 FIFTH CAUSE FOR DISCIPLINE

26 (Unprofessional Conduct: Violation of Board Regulation)

27 17. Respondents Pacific Pharmacy and PIC Buu are subject to disciplinary action  
28 under section 4301(j) in conjunction with CCR section 1717(f) for failure to comply with that

1 regulation's requirements concerning the transfer between pharmacies of prescriptions, as  
2 more particularly alleged above and incorporated here by reference.

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PRAYER

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

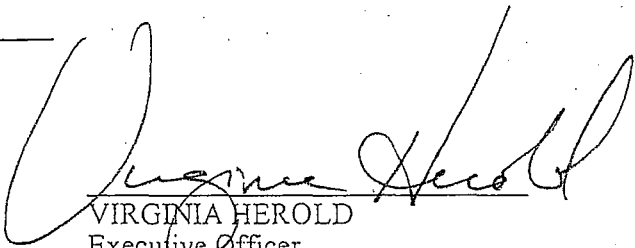
1. Revoking or suspending Original Pharmacy Permit Number PHY 40567, issued  
to Le Thuy Troung , dba Pacific Pharmacy;

2. Revoking or suspending Pharmacist License Number RPH 45364, issued to Que  
Buu;

3. Ordering Le Thuy Troung and QUE BUU 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;

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

DATED: 10/22/07



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant