

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

In the Matter of the First Amended Accusation
Against:

Case No. 3125

**MISSION COMMUNITY PHARMACY,
INC. d.b.a., MISSION PHARMACY**
16569 Brookhurst Avenue
Fountain Valley, CA 92708
Pharmacy Permit PHY 46966
(Canceled on 12/10/10)

**STIPULATED SURRENDER OF
LICENSE AND ORDER AS TO
ELIZABETH DUC TRAN ONLY**

and

ELIZABETH DUC TRAN
16373 Sandalwood St.
Fountain Valley, CA 92708
Pharmacist License No. RPH 48237

Respondent.

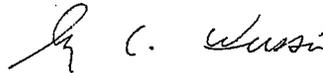
DECISION AND ORDER

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 December 21, 2011.

It is so ORDERED November 21, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MICHAEL A. CACCIOTTI
Deputy Attorney General
4 State Bar No. 129533
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2932
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10 In the Matter of the First Amended Accusation

Case No. 3125

11 Against:

OAH No. L-2010040156

12
13 **MISSION COMMUNITY PHARMACY,**
INC. d.b.a., MISSION PHARMACY

STIPULATED SURRENDER OF
LICENSE AND ORDER

14 **16569 Brookhurst Avenue**
Fountain Valley, Ca 92708

15 **TERESA TRUONG, President**

16 **(From 11/17/04 to Present)**

17 **ELIZABETH DUC TRAN, Pharmacist-in-**
Charge

18 **(From 12/23/05 to Present)**

19 **Pharmacy Permit No. PHY 46966**
(Canceled on 12/10/10); and

20 **ELIZABETH DUC TRAN**

21 **16373 Sandalwood St.**
Fountain Valley, CA 92708

22
23 **Pharmacist License No. RPH 48237**

24 Respondents.
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1 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
2 proceeding that the following matters are true:

3 PARTIES

4 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
5 She brought this action solely in her official capacity and is represented in this matter by Kamala
6 D. Harris, Attorney General of the State of California, by Michael A. Cacciotti, Deputy Attorney
7 General.

8 2. Mission Community Pharmacy, Inc., dba Mission Pharmacy; Elizabeth Duc Tran are
9 represented in this proceeding by attorney Herbert L. Weinberg, whose address is Herbert L.
10 Weinberg, McGuireWoods LLP, 1800 Century Park East 8th Floor, Los Angeles, CA 90067.¹

11 3. On or about November 17, 2004, the Board of Pharmacy issued Pharmacy Permit No.
12 PHY 46966 to Mission Community Pharmacy, Inc. to do business as Mission Pharmacy, with
13 Elizabeth Duc Tran as Pharmacist-in-charge since December 23, 2005. The Pharmacy Permit
14 was in full force and effect at all times relevant to the charges brought herein and was canceled on
15 December 10, 2010, due to a change of ownership.

16 4. On or about August 14, 1995, the Board of Pharmacy issued Pharmacist License No.
17 RPH 48237 to Elizabeth Duc Tran (Respondent). The Pharmacist License was in full force and
18 effect at all times relevant to the charges brought herein and will expire on December 31, 2012,
19 unless renewed.

20 JURISDICTION

21 5. Accusation No. 3125 was filed before the Board of Pharmacy (Board), Department of
22 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
23 statutorily required documents were properly served on Respondent on October 8, 2009.
24 Respondent timely filed her Notice of Defense contesting the Accusation. The First Amended

25 _____
26 ¹ Pharmacy permit no. PHY 46966 issued to Respondent Mission Pharmacy was canceled
27 on December 10, 2010, due to a change of ownership, and pursuant to Business and Professions
28 Code section 4402(e), the Board no longer has jurisdiction over Respondent Mission Pharmacy,
Pharmacy permit no. PHY 46966. Therefore, the Stipulated Surrender of License and Order Case
No. 3125 shall only address Pharmacist License no. RPH 48237 issued to Respondent Elizabeth
Duc Tran.

1 Accusation and all other statutorily required documents were properly served on Respondent on
2 October 21, 2010. A copy of the First Amended Accusation No. 3125 is attached as Exhibit A
3 and incorporated by reference.

4 ADVISEMENT AND WAIVERS

5 6. Respondent has carefully read, fully discussed with counsel, and understands the
6 charges and allegations in the First Amended Accusation No. 3125. Respondent also has
7 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
8 Surrender of License and Order.

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

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

18 CULPABILITY

19 9. Respondent Elizabeth Duc Tran admits the truth of each and every charge and
20 allegation in Accusation No. 3125, agrees that cause exists for discipline and hereby surrenders
21 her Pharmacist License No. RPH 48237 for the Board's formal acceptance.

22 10. Respondent Elizabeth Duc Tran understands that by signing this stipulation she
23 enables the Board to issue an order accepting the surrender of her Pharmacist License No. RPH
24 48237 without further process.

25 CONTINGENCY

26 11. This stipulation shall be subject to approval by the Board. Respondent understands
27 and agrees that counsel for Complainant and the staff of the Board may communicate directly
28 with the Board regarding this stipulation and surrender, without notice to or participation by

1 Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that
2 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board
3 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
4 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
5 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
6 be disqualified from further action by having considered this matter.

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

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

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

18 **ORDER**

19 IT IS HEREBY ORDERED that Pharmacist License No. 48237 issued to Respondent is
20 surrendered and accepted by the Board of Pharmacy.

21 15. The surrender of Respondent's Pharmacist License No. RPH 48237 and the
22 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
23 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
24 of Respondent's license history with the Board.

25 16. Respondent shall lose all rights and privileges as a Pharmacist in California as of the
26 effective date of the Board's Decision and Order.

27 17. Respondent shall cause to be delivered to the Board her wall license certificate and, if
28 one was issued, her pocket license on or before the effective date of the Decision and Order.

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1 18. If Respondent ever files an application for licensure or a petition for reinstatement in
2 the State of California, the Board shall treat it as a new application for licensure.

3 19. Respondent may not apply for any license, permit, or registration from the Board for
4 three years from the effective date of this decision. Respondent stipulates that should she apply
5 for any license from the Board on or after the effective date of this decision, all allegations set
6 forth in the First Amended Accusation shall be deemed to be true, correct and admitted by the
7 Respondent when the Board determines whether to grant or deny the application. Respondent
8 shall satisfy all requirements applicable to that license as of the date the application is submitted
9 to the Board, including, but not limited to taking and passing the California Pharmacist Licensure
10 Examination prior to the issuance of a new license. Respondent is required to report this
11 surrender as disciplinary action.

12 20. If Respondent should ever apply or reapply for a new license or certification, by any
13 other health care licensing agency in the State of California, all of the charges and allegations
14 contained in the First Amended Accusation, No. 3125 shall be deemed to be true, correct, and
15 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
16 seeking to deny or restrict licensure.

17 21. Respondent shall pay the Board its costs of investigation and enforcement in the
18 amount of \$59,895.25 prior to issuance of a new license.

19 ACCEPTANCE

20 I have carefully read the above Stipulated Surrender of License and Order and have fully
21 discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it
22 will have on my Pharmacist License No RPH 48237. I enter into this Stipulated Surrender of
23 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
24 Decision and Order of the Board of Pharmacy.

25

26 DATED: 05/04/2011 *E. Tran*
27 ELIZABETH DUC TRAN
28 Respondent

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

3
4 DATED: _____

HERBERT L. WEINBERG
Attorney for Respondent

5
6 ENDORSEMENT

7
8 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
9 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

10 Dated: May 3, 2011

Respectfully submitted,

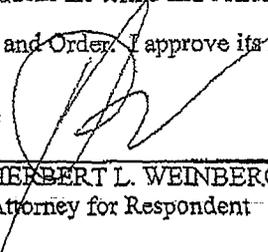
KAMALA D. HARRIS
Attorney General of California,
MARC D. GREENBAUM
Supervising Deputy Attorney General

MICHAEL A. CACCIOTTI
Deputy Attorney General
Attorneys for Complainant

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

3
4 DATED: 5/5/11


HERBERT L. WEINBERG
Attorney for Respondent

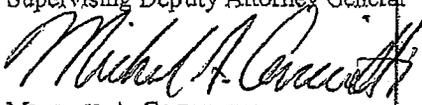
5
6
7 ENDORSEMENT

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

10 Dated: May 3, 2011

Respectfully submitted,

11 KAMALA D. HARRIS
12 Attorney General of California
13 MARC D. GREENBAUM
14 Supervising Deputy Attorney General


15 MICHAEL A. CACCIOTTI
16 Deputy Attorney General
17 Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 3125

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MICHAEL A. CACCIOTTI, STATE BAR NO. 129533
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2544
Facsimile: (213) 897-2804
6 *Attorneys for Complainant*

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14 **TERESA TRUONG, President**
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17
18 **Pharmacy Permit No. PHY 46966**
(From 11/17/04 to Present); and
19
20 **ELIZABETH DUC TRAN**
16373 Sandalwood St.
21 **Fountain Valley, CA 92708**
22
23 **Pharmacist License No. RPH 48237**
24
25 Respondents.

Case No. 3125
OAH No. L-2010040156

**FIRST AMENDED
ACCUSATION**

25 Complainant alleges:

26 **PARTIES**

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

1 “(a) Any drug that bears the legend: “Caution: federal law prohibits dispensing without
2 prescription,” “Rx only,” or words of similar import.

3 “(b) Any device that bears the statement: “Caution: federal law restricts this device to sale
4 by or on the order of a _____,” “Rx only,” or words of similar import, the blank to be filled
5 in with the designation of the practitioner licensed to use or order use of the device.

6 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
7 prescription or furnished pursuant to Section 4006.”

8 12. Section 4063 of the Code states in part:

9 ““No prescription for any dangerous drug ... may be refilled except upon authorization of
10 the prescriber. The authorization may be given orally or at the time of giving the original
11 prescription. No prescription for any dangerous drug that is a controlled substance may be
12 designated refillable as needed.”

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

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

17

18 “(d) The clearly excessive furnishing of controlled substances in violation of subdivision (a)
19 of Section 11153 of the Health and Safety Code.

20

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

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

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27 “(j) The violation of any of the statutes of this state, or any other state, or of the United
28 States regulating controlled substances and dangerous drugs.

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

....

“(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 or by any other state or federal regulatory agency.”

14. Health and Safety Code section 11153 states in part:

“(a) A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order

1 purporting to be a prescription which is issued not in the usual course of professional
2 treatment or in legitimate and authorized research; or (2) an order for an addict or
3 habitual user of controlled substances, which is issued not in the course of
4 professional treatment or as part of an authorized narcotic treatment program, for the
5 purpose of providing the user with controlled substances, sufficient to keep him or her
6 comfortable by maintaining customary use.

7
8 “(b) Any person who knowingly violates this section shall be punished by
9 imprisonment in the state prison or in the county jail not exceeding one year, or by a
10 fine not exceeding twenty thousand dollars (\$20,000), or by both a fine and
11 imprisonment.”

12 15. Health and Safety Code section 11158 subdivision (a) states:

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

19 16. Health and Safety Code section 11165 states in part:

20 “(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled
21 substance, the dispensing pharmacy or clinic shall provide the following information to the
22 Department of Justice on a weekly basis and in a format specified by the Department of Justice:

- 23 (1) Full name, address, and the telephone number of the ultimate user or
24 research subject, or contact information as determined by the Secretary of
25 the United States Department of Health and Human Services, and the
26 gender, and date of birth of the ultimate user.
- 27 (2) The prescriber's category of licensure and license number; federal controlled
28 substance registration number; and the state medical license number of any
prescriber using the federal controlled substance registration number of a
government-exempt facility.
- (3) Pharmacy prescription number, license number, and federal controlled
substance registration number
- (4) NDC (National Drug Code) number of the controlled substance dispensed.
- (5) Quantity of the controlled substance dispensed.
- (6) ICD-9 (diagnosis code), if available.
- (7) number of refills ordered.
- (8) Whether the drug was dispensed as a refill of a prescription or as a first-time
request.
- (9) Date of origin of the prescription.
- (10) Date of dispensing of the prescription.”

//

1 17. Health and Safety Code section 11172 states "No person shall antedate or postdate a
2 prescription."

3 **REGULATORY PROVISIONS**

4 18. California Code of Regulations section 1716 states in part:

5 "Pharmacists shall not deviate from the requirements of a prescription except upon the
6 prior consent of the prescriber or to select the drug product in accordance with Section 4073 of
7 the Business and Professions Code."

8 19. California Code of Regulations, title 16, section 1770, states:

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

15 20. California Code of Regulations section 1761 states:

16 "(a) No pharmacist shall compound or dispense any prescription which contains any
17 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any
18 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
19 validate the prescription.

20 "(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense
21 a controlled substance prescription where the pharmacist knows or has objective reason to know
22 that said prescription was not issued for a legitimate medical purpose."

23 21. California Code of Regulations section 1707.3 states:

24 "Prior to consultation as set forth in section 1707.2, a pharmacist shall review a patient's
25 drug therapy and medication record before each prescription drug is delivered. The review shall
26 include screening for severe potential drug therapy problems."

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1 COST RECOVERY

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

6 Controlled Substance / Dangerous Drug

7 23. "Celebrex" is the generic name for Celecoxib and is a "dangerous drug," pursuant to
8 section 4022 of the Business and Professions Code.

9 24. Alprazolam, also known as Xanax, is controlled substance as defined in Health and
10 Safety Code section 11057, subdivision (d), and is categorized as a dangerous drug according to
11 Code section 4022.

12 25. Dilaudid, also known as Hydromorphone, is controlled substance as defined in Health
13 and Safety Code section 11055, subdivision (b)(1)(K), and is categorized as a dangerous drug
14 according to Code section 4022.

15 26. OxyContin, also known as Oxycodone, is controlled substance as defined in Health
16 and Safety Code section 11055, subdivision (b), and is categorized as a dangerous drug according
17 to Code section 4022.

18 27. Hydrocodone with Acetaminophen, also known as Vicodin, is controlled substance as
19 defined in Health and Safety Code section 11056, subdivision (e)(4), and is categorized as a
20 dangerous drug according to Code section 4022.

21 28. Hydrocodone, also known as NORCO, is controlled substance as defined in Health
22 and Safety Code section 11056, subdivision (e)(4), and is categorized as a dangerous drug
23 according to Code section 4022.

24 29. Diazepam, also known as Valium, is controlled substance as defined in Health and
25 Safety Code section 11057, subdivision (d), and is categorized as a dangerous drug according to
26 Code section 4022.

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1 committed acts of dishonesty, fraud, or deceit. Complainant's allegations, as set forth in
2 paragraph 32, are incorporated by reference as though fully set forth.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Knowingly Signed False Documents)**

5 34. Respondent Elizabeth Duc Tran is subject to disciplinary action under section 4301,
6 subdivision (g), in that from on or about July 2003, through on or about May 2004, Respondent
7 knowingly signed false documents that misrepresented the existence or nonexistence of facts.
8 Complainant's allegations, as set forth in paragraph 32, are incorporated by reference as though
9 fully set forth.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Insurance Fraud)**

12 35. Respondent Elizabeth Duc Tran is subject to disciplinary action under sections 4300
13 and 810, subdivisions (a)(1) and (2), in that from on or about July 2003, through on or about May
14 2004, Respondent knowingly presented or caused to be presented a false or fraudulent claim for
15 the payment of a loss under a contract of insurance. Respondent prepared a writing, with the
16 intent to present or use the same, or to allow it to be presented or used, in support of a false or
17 fraudulent claim. Complainant's allegations, as set forth in paragraph 32, are incorporated by
18 reference as though fully set forth.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Violating or Attempting to Violate the Terms or Provisions of the Board)**

21 36. Respondent Elizabeth Duc Tran is subject to disciplinary action under section 4301,
22 subdivision (o), in that from on or about July 2003, through on or about May 2004, Respondent
23 violated or attempted to violate the terms or provisions of the Board. Complainant's allegations,
24 as set forth in paragraph 32, are incorporated by reference as though fully set forth.

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1 a. Respondents dispensed the following three (3) prescriptions to Patient KMcC on:
2 September 15, 2008, prescription no. 780012 for 100 Alprazolam; September 26, 2008,
3 prescription no. 781935 for 100 Alprazolam; and October 9, 2008, prescription no. 783882 for
4 100 Alprazolam.

5 b. Respondents dispensed the following five (5) prescriptions to Patient KMcC on:
6 August 14, 2008, prescription # 775828 for 100 Dilaudid; August 26, 2008, prescription no.
7 777367 for 150 Dilaudid; September 8, 2008, prescription no. 778951 for 100 Dilaudid;
8 September 26, 2008, prescription no. 781933 for 150 Dilaudid; and October 9, 2008, prescription
9 no. 783880 for 150 Dilaudid.

10 c. Respondents dispensed the following four (4) prescriptions to Patient AO on;
11 September 12, 2008, prescription no. 779632 for 90 OxyContin; September 23, 2008, prescription
12 no. 781294 for 90 OxyContin; October 24, 2008, prescription no. 786336 for 90 OxyContin; and
13 December 2, 2008, prescription no. 792185 for 90 OxyContin;

14 d. Respondents dispensed the following four (4) prescriptions to Patient AO on;
15 September 15, 2008, prescription no. 779891 for 100 Dilaudid; October 31, 2008, prescription no.
16 787373 for 150 Dilaudid; December 4, 2008, prescription no. 792615 for 150 Dilaudid; and
17 December 20, 2008, prescription no. 794990 for 150 Dilaudid.

18 e. Respondents dispensed the following two (2) prescriptions to Patient AO on; October
19 10, 2008, prescription no. 784079 for 150 Hydrocodone with Acetaminophen; and October 29,
20 2008, prescription no. 787035 for 100 Hydrocodone with Acetaminophen.

21 f. Respondents dispensed the following two (2) prescriptions to Patient AO on:
22 December 4, 2008, prescription no. 792616 for 100 Alprazolam; and December 20, 2008,
23 prescription no. 794991 for 100 Alprazolam.

24 g. Respondents dispensed the following two (2) prescriptions to Patient AO on April 9,
25 2009, prescription no. 809247 for 150 Dilaudid and prescription no. 809249 for 90 OxyContin.

26 h. Respondents dispensed the following four (4) prescriptions to Patient UH on: October
27 27, 2008, prescription no. 786758 for 150 Dilaudid; November 10, 2008, prescription no. 788939
28

1 for 150 Dilaudid; December 3, 2008, prescription no. 792358 for 150 Dilaudid; and December 4,
2 2008, prescription no. 792656 for 150 Dilaudid.

3 i. Respondents dispensed prescription no. 792562 for 90 OxyContin to Patient UH on
4 December 3, 2008.

5 j. Respondents dispensed the following two (2) prescriptions to Patient GJ on July 12,
6 2008, prescription no. 771497 for 90 OxyContin and prescription no. 771498 for 240 Dilaudid.

7 k. Respondents dispensed the following two (2) prescriptions to Patient GJ on
8 December 9, 2008, prescription no. 793533 for 90 OxyContin and prescription no. 793534 for
9 150 Dilaudid.

10 l. Respondents dispensed the following two (2) prescriptions to Patient LJ on:
11 November 3, 2008, prescription no. 787721 for 150 Dilaudid; and November 4, 2008,
12 prescription no. 787879 for 90 OxyContin.

13 m. Respondents dispensed two (2) prescriptions to Patient KM on December 9, 2008,
14 prescription no. 793525 for 90 OxyContin and prescription no. 793529 for 150 Dilaudid.

15 **EIGHTH CAUSE FOR DISCIPLINE**

16 **(Excessive Furnishing of Controlled Substances)**

17 39. Respondents Mission Community Pharmacy, Inc., and Elizabeth Duc Tran are subject
18 to disciplinary action under section 4301, subdivision (d), in that Respondents excessively
19 furnished controlled substances. Complainant's allegations as set forth in paragraphs 37,
20 subparagraphs (a) through (e) and 38, subparagraphs (a) through (m), inclusive, are incorporated
21 by reference as though fully set forth.

22 **NINTH CAUSE FOR DISCIPLINE**

23 **(Dispensing Postdated or Antedated Prescriptions)**

24 40. Respondents Mission Community Pharmacy, Inc., and Elizabeth Duc Tran are subject
25 to disciplinary action under section 4301, subdivision (j) in conjunction with Health and Safety
26 Code 11158, subdivision (a), in that Respondents filled prescriptions that did not meet the
27 requirements of the Health and Safety Code. Specifically, Respondents dispensed prescriptions
28 that were postdated or antedated in violation of Health and Safety Code 11172. Respondents

1 filled and dispensed the following controlled substances earlier than the date on the written
2 prescription as follows:

- 3 a. On or about September 8, 2008, Respondents dispensed to Patient KMcC,
4 prescription no. 778951 for 100 Dilaudid when the prescription was dated September 23, 2008.
- 5 c. On or about December 11, 2008, Respondents dispensed to Patient KB, prescription
6 no. 793747 for 150 Dilaudid when the prescription was dated December 23, 2008.
- 7 d. On or about December 11, 2008, Respondents dispensed to Patient KB, prescription
8 no. 793748 for 100 Alprazolam when the prescription was dated December 23, 2008.
- 9 e. On or about April 1, 2009, Respondents dispensed to Patient CT, prescription no.
10 808130 for 150 Dilaudid when the prescription was dated April 18, 2009.
- 11 f. On or about April 1, 2009, Respondents dispensed to Patient CT, prescription no.
12 808131 for 100 Alprazolam when the prescription was dated April 18, 2009.

13 **TENTH CAUSE FOR DISCIPLINE**

14 **(Erroneous Prescriptions)**

15 41. Respondents Mission Community Pharmacy, Inc., and Elizabeth Duc Tran are subject
16 to disciplinary action under section 4301, subdivision (o), in conjunction with California Code of
17 Regulations section 1761, subdivision (a), in that Respondents dispensed prescriptions containing
18 an irregularity, uncertainty or ambiguity. Complainant's allegations as set forth in paragraph 40,
19 subparagraphs (a) through (f), inclusive, are incorporated by reference as though fully set forth.

20 **ELEVENTH CAUSE FOR DISCIPLINE**

21 **(Variation from Prescription)**

22 42. Respondents Mission Community Pharmacy, Inc., and Elizabeth Duc Tran are subject
23 to disciplinary action under section 4031, subdivision (o), in conjunction with California Code of
24 Regulations section 1716, in that Respondents dispensed prescriptions for controlled substances
25 that varied from the written prescription as follows:

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1 a. On or about July 3, 2008, Respondents dispensed prescription no. 770237 for 100
2 Alprazolam, to Patient KE, under the name of a different doctor than what was designated on the
3 written prescription.

4 b. On or about December 1, 2008, Respondents dispensed prescription no. 792095 for
5 150 Hydrocodone with Acetaminophen, to Patient MM, under the name of a different doctor than
6 what was designated on the written prescription.

7 c. On or about December 23, 2008, Respondents dispensed prescription no. 795237 for
8 150 Hydrocodone with Acetaminophen, to Patient MM, under the name of a different doctor than
9 what was designated on the written prescription.

10 **TWELFTH CAUSE FOR DISCIPLINE**

11 **(Failure to Review Prescriptions)**

12 43. Respondents Mission Community Pharmacy, Inc., and Elizabeth Duc Tran are subject
13 to disciplinary action under section 4301, subdivision (o), in conjunction with California Code of
14 Regulations section 1707.3, in that Respondents failed to review patients' drug therapy and
15 medication record before each drug was delivered and failed to screen for severe potential drug
16 therapy problems. Complainants allegations as set forth in paragraph 37, subparagraphs (a)
17 through (e); paragraph 38, subparagraph (a) through (m); paragraph 39, paragraph 40,
18 subparagraphs (a) through (f); paragraph 41; paragraph 42, subparagraphs (a) through (c),
19 inclusive, are incorporated by reference as though fully set forth.

20 **THIRTEENTH CAUSE FOR DISCIPLINE**

21 **(Failure to Report Controlled Substances to CURES)**

22 44. Respondents Mission Community Pharmacy, Inc., and Elizabeth Duc Tran are subject
23 to disciplinary action under section 4301, subdivision (j), in conjunction with Health and Safety
24 Code section 11165, subdivision (d), in that, Respondents failed to report in prescriptions for
25 controlled substances to the Department of Justice' electronic reporting system "CURES" as
26 follows:

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1 a. Respondents failed to report numerous prescriptions for controlled substances during
2 the time period of January 3, 2009 through February 2, 2009, for certain prescriptions that fall
3 within the range of prescription nos. 796110 through 799985.

4 b. Respondents failed to report numerous prescriptions for controlled substances during
5 the time period of February 7, 2009 through March 16, 2009, for certain prescriptions that fall
6 within the range of prescription nos. 800874 through 806013.

7 **DISCIPLINE CONSIDERATIONS**

8 45. To determine the degree of discipline, if any, to be imposed on Respondents,
9 Complainant alleges:

10 a. On or about June 15, 2004, the Board of Pharmacy issued Citation No. CI 2003
11 27662 to Respondent Pharmacist-in-Charge Elizabeth Duc Tran, RPH 48237 for violating
12 California Code of Regulations, title 16, section 1716 (variation from a prescription).
13 Pharmacist-in-Charge Elizabeth Duc Tran, RPH 48237 dispensed Ziagen (generic name:
14 Abacavir) instead of Tenofovir (brand name: Viread), which had been prescribed. The citation
15 was issued with a fine in the amount of \$125.00 and is now final.

16 b. On or about May 4, 2006, the Board of Pharmacy issued Citation No. CI 2005 30110
17 to Respondent Mission Community Pharmacy, Inc. dba Mission Pharmacy, Permit No. PHY
18 46966, for violating Business and Professions Code section 4342 (actions by Board to prevent
19 sales of preparations of drugs lacking quality or strength) and Health & Safety Code section
20 11165 (Controlled Substance Utilization Review and Evaluation System). On December 22,
21 2005, while under the supervision of Pharmacist-In-Charge Theresa Van Truong, RPH 50360,
22 numerous expired drugs were found in the pharmacy's active stock, and the electronic monitoring
23 of schedule II prescriptions had not been transmitted as required. The citation was issued with a
24 fine in the amount of \$500.00 and is now final.

25 **PRAYER**

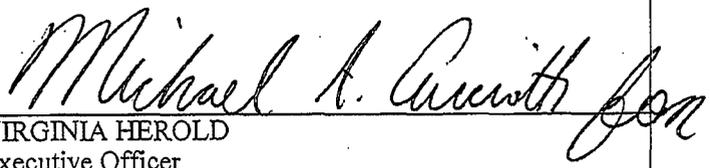
26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board of Pharmacy issue a decision:

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1. Revoking or suspending Pharmacy Permit Number PHY 46966, issued to Mission Community Pharmacy, Inc. dba Mission Pharmacy;
2. Revoking or suspending Pharmacist License Number RPH 48237, issued to Elizabeth Duc Tran;
3. Ordering Mission Community Pharmacy, Inc. dba Mission Pharmacy; and Elizabeth Duc Tran to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and
4. Taking such other and further action as deemed necessary and proper.

DATED: 10/21/10


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

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