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

In the Matter of the Accusation Against: **VERMONT PHARMACY AND MEDICAL SUPPLIES; HAKOP DEMIRCHYAN, OWNER; TRINIDAD M. BAGOYO, PHARMACIST-IN-CHARGE** (disassociated as of 3/26/09) 6320 Laurel Canyon Blvd. North Hollywood, CA 91606 7843 Melita Avenue North Hollywood, CA 91605 Retail Pharmacy License No. 48275, **TRINIDAD M. BAGOYO** 30572 Sparrow Hawk Canyon Lake, CA 92587 Registered Pharmacist License No. 22293 **NARINE ARUTUNYAN** 10842 Keswick St. Sun Valley, CA 91352 323 W. Jackson St., #207 Glendale, CA 91206 Pharmacy Technician Registration No. 86550, Respondents.	Case No. 3353 OAH No. L-2009051007 **STIPULATED RETIREMENT OF LICENSE AND ORDER** As to: **NARINE ARUTUNYAN** **Pharmacy Technician Registration No. 86550**

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 October 21, 2009.

It is so ORDERED September 21, 2009.

Kenneth H. Schell

KENNETH H. SCHELL, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

EDMUND G. BROWN JR.
Attorney General of California
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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: **VERMONT PHARMACY AND MEDICAL SUPPLIES; HAKOP DEMIRCHYAN, OWNER; TRINIDAD M. BAGOYO, PHARMACIST-IN-CHARGE** (disassociated as of 3/26/09) 6320 Laurel Canyon Blvd. North Hollywood, CA 91606 7843 Melita Avenue North Hollywood, CA 91605 Retail Pharmacy License No. 48275, **TRINIDAD M. BAGOYO** 30572 Sparrow Hawk Canyon Lake, CA 92587 Registered Pharmacist License No. 22293 **NARINE ARUTUNYAN** 10842 Keswick St. Sun Valley, CA 91352 323 W. Jackson St., #207 Glendale, CA 91206 Pharmacy Technician Registration No. 86550, Respondents.	Case No. 3353 OAH No. L-2009051007 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** As to: **NARINE ARUTUNYAN** **Pharmacy Technician Registration No. 86550**

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 Herold (Complainant) is the Executive Officer of the Board of Pharmacy (Board). She brought this action solely in her official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Linda L. Sun, Deputy Attorney General.

2. On or about October 17, 2008, the Board issued Pharmacy Technician Registration Number 86550 to Narine Arutunyan (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2010, unless renewed. Respondent is represented in this proceeding by attorney Herbert L. Weinberg, whose address is McGuire Woods LLP, 1800 Century Park East, 8th Floor, Los Angeles, CA 90067.

JURISDICTION

3. Accusation No. 3353 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 May 12, 2009. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 3353 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

4. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 3353. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

5. 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 its 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.

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

CULPABILITY

7. Respondent admits the truth of each and every charge and allegation in Accusation No. 3353.

8. Respondent agrees that her Pharmacy Technician Registration 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

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

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

11. 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 Pharmacy Technician Registration Number 86550 issued to Respondent Narine Arutunyan is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years 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 their probation. Failure to comply shall be considered a violation of probation.

5. **Notice to Employers.** Respondent shall notify all present and prospective employers of the decision in Accusation No. 3353 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 Accusation No. 3353. 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 terms conditions of the decision in Accusation No. 3353 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 other service as a pharmacy technician or pharmacy employee, whether the Respondent is considered an employee, independent contractor or volunteer.

6. **Reimbursement of Board Costs.** Respondent shall pay to the Board its costs of investigation and prosecution in the amount of five thousand dollars ($5,000). Respondent shall be permitted to make installments pursuant to a Board-approved plan. Failure to pay such costs shall be considered a violation 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.

7. **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.

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8. **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 cancelled 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.

9. **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.

10. **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.

11. **Tolling of Probation.** Should Respondent, regardless of residency, for any reason cease working as a pharmacy technician for a minimum of 40 hours per calendar month in California, Respondent must notify the Board in writing within 10 days of cessation of working as a pharmacy technician or the resumption of working as a pharmacy technician. 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 working as a pharmacy technician as defined in Section 4115 of the Business and Professions Code.

12. **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.

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

14. **Board Approval of Employment.** Respondent shall obtain prior approval from the Board before starting any position in any Board-licensed facility in which she intends to work, whether paid or unpaid.

15. **No Ownership of Premises.** Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within 90 days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the Board.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration 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: 6/22/09

NARINE ARUTUNYAN
Respondent

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

DATED: 6/23/09

HERBERT WEINBERG
Attorney for 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: 6-23-09

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General

LINDA L. SUN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3353

EDMUND G. BROWN JR., Attorney General
of the State of California
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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: **VERMONT PHARMACY & MEDICAL SUPPLIES; HAKOP DEMIRCHYAN,** Owner **TRINIDAD M. BAGOYO,** Pharmacist-in-Charge 1012 N. Vermont Ave. Los Angeles, CA 90029 6320 Laurel Canyon Blvd. North Hollywood, CA 91606 Retail Pharmacy License No. 48275, **TRINIDAD M. BAGOYO** 30572 Sparrow Hawk Canyon Lake, CA 92587 Registered Pharmacist License No. 22293, **NARINE ARUTUNYAN** 10842 Keswick St. Sun Valley, CA 91352 323 W. Jackson St., #207 Glendale, CA 91206 Pharmacy Technician Registration No. 86550, Respondents.	Case No. 3353 OAH No. L-2009040779 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about October 30, 2006, the Board issued Retail Pharmacy License Number 48275 to Vermont Pharmacy and Medical Supplies ("Respondent Vermont Pharmacy"), with Hakop Demirchyan as owner, and Trinidad M. Bagoyo ("Respondent Bagoyo") as Pharmacist-in-Charge. The Retail Pharmacy License was in full force and effect at all times relevant to the charges brought herein and will expire on October 1, 2009, unless renewed. On or about May 11, 2009, an Interim Suspension Order was issued against Respondent Vermont Pharmacy, suspending it from operating as a pharmacy pending a full administrative determination of the charges alleged herein. (Exhibit 1.)

3. On or about November 6, 1961, the Board issued Registered Pharmacist License Number 22293 to Respondent Bagoyo. The Registered Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2010, unless renewed. On or about May 5, 2009, Respondent Bagoyo signed a "Stipulated Interim Suspension of License", to which she agreed that her Registered Pharmacist License was temporarily suspended pending a full administrative determination of the charges alleged herein. (Exhibit 2.)

4. On or about October 17, 2008, the Board issued Pharmacy Technician Registration Number 86550 to Narine Arutunyan ("Respondent Arutunyan"). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2010, unless renewed. On or about May 11, 2009, an Interim Suspension Order was issued against Respondent Arutunyan, suspending her from practice pending a full administrative determination of the charges alleged herein. (Exhibit 1.)

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JURISDICTION

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

STATUTORY PROVISIONS

6. Code section 4300, subdivision (a) states:

"Every license issued may be suspended or revoked."

7. Code section 4110, subdivision (a) states:

"No person shall conduct a pharmacy in the State of California unless he or she has obtained a license from the board. A license shall be required for each pharmacy owned or operated by a specific person. A separate license shall be required for each of the premises of any person operating a pharmacy in more than one location. The license shall be renewed annually. The board may, by regulation, determine the circumstances under which a license may be transferred."

8. Code section 4105, subdivision (a) states:

"All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form."

9. Code section 4201, subdivision (f) states:

"Notwithstanding any other provision of law, the pharmacy license shall authorize the holder to conduct a pharmacy. The license shall be renewed annually and shall not be transferrable."

10. Code section 4301 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:

"(c) Gross negligence.

. . . .

"(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."

COST RECOVERY

11. Section 125.3, subdivision (a), states, in pertinent part:

"Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . 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."

FIRST CAUSE FOR DISCIPLINE

(Unlicensed Activities)

12. Respondents Vermont Pharmacy, Bagoyo and Arutunyan are subject to disciplinary action under Code section 4301, subdivision (o), for violating Code sections 4110, subdivision (a) and 4201, subdivision (f), in that Respondents operated Respondent Vermont Pharmacy without a valid permit, and relocated the pharmacy without Board approval. The circumstances are as follows:

a. On or about November 7, 2008, the Board received a Community Pharmacy Permit Application ("Application") and related documents for change of ownership of Respondent Vermont Pharmacy. The proposed new owner/buyer/president is Armen Grigorian ("Applicant Grigorian"), with Respondent Bagoyo as the Pharmacist-in-Charge, and Respondent Arutunyan as the secretary and co-owner. Pending issuance of a new permit, from about September, 2008 to February, 2009, Applicant Grigorian, Respondent Bagoyo and/or Respondent Arutunyan ordered and dispensed drugs under the former owner's permit. The corporate and

financial documents Applicant Grigorian submitted show that the sale of Respondent Vermont Pharmacy had already occurred in October, 2008, and Respondents had been operating Respondent Vermont Pharmacy without Board approval.

b. On or about March 4, 2009, the Board received additional documents from Applicant Grigorian, including a new Community Pharmacy Permit Application and related documents, all signed on February 18, 2009, requesting a change of location of Respondent Vermont Pharmacy from 1012 N. Vermont Ave., Los Angeles, CA 90029 to 6320 Laurel Canyon Blvd., North Hollywood, CA 91606. Pending Board approval of the change of location, Respondents had already relocated Respondent Vermont Pharmacy to North Hollywood as of about January, 2009.

c. On or about March 26, 2009, the Board conducted an inspection of Respondent Vermont Pharmacy at its new location, 6320 Laurel Canyon Blvd., North Hollywood, CA 91606. Applicant Grigorian informed the inspectors that he purchased the pharmacy in September, 2008 and took over the business on October 1, 2008.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Pharmacy Records on Licensed Premise)

13. Respondents Vermont Pharmacy, Bagoyo and Arutunyan are subject to disciplinary action under Code section 4301, subdivision (o) for violating Code section 4105, subdivision (a), in that during the Board inspection on March 26, 2009, pharmacy records were found on the unlicensed premise in North Hollywood.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence)

14. Respondent Bagoyo is subject to disciplinary action under Code section 4301, subdivision (c) for gross negligence, the circumstances are as follows:

a. On March 26, 2009, during the inspection of the unlicensed premise in North Hollywood, Respondent Bagoyo informed Board inspectors that she knew the pharmacy moved, that she inventoried and packed the drugs but she did not know where the drugs or

pharmacy records were.

b. From about September, 2008 to February, 2009, Respondent Bagoyo as Pharmacist-in-Charge, dispensed, ordered drugs and/or otherwise operated or allowed Respondent Vermont Pharmacy to operate without a valid permit.

c. In about January, 2009, Respondent Bagoyo as Pharmacist-in-Charge, assisted and/or allowed Respondent Vermont Pharmacy to be relocated without Board approval.

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 Retail Pharmacy License Number 48275, issued to Vermont Pharmacy and Medical Supplies; Trinidad M. Bagoyo, Pharmacist-in-Charge;

2. Revoking or suspending Registered Pharmacy License Number 22293, issued to Trinidad M. Bagoyo;

3. Revoking or suspending Pharmacy Technician Registration umber 86550, issued to Narine Arutunyan;

4. Order Vermont Pharmacy and Medical Supplies, Trinidad M. Bagoyo and Narinen Arutunyan 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;

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

DATED: 5-11-09

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

Attachments:
Exhibit 1 (Order Granting Interim Suspension)
Exhibit 2 (Stipulated Interim Suspension of License)
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EXHIBIT 1

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

In the Matter of the Petition for Order of Interim Suspension Against: VERMONT PHARMACY & MEDICAL SUPPLIES; TRINIDAD M. BAGOYO, Pharmacist-in-Charge Retail Pharmacy License No. 48275, TRINIDAD M. BAGOYO Registered Pharmacist License No. 22293, NARINE ARUTUNYAN Pharmacy Technician Registration No. 86550, Respondent.	Case No. 3353 OAH No. 2009040779

ORDER GRANTING INTERIM SUSPENSION

On May 8, 2009, at Los Angeles, California, the Petition of Virginia Herold (Petitioner), Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board) for issuance of an Interim Order of Suspension, came on for hearing before H. Stuart Waxman, Administrative Law Judge with the Office of Administrative Hearings.

Linda L. Sun, Deputy Attorney General, represented Petitioner.

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Respondents, Vermont Pharmacy & Medical Supplies and Narine Arutunyan. (Respondents) were represented by Herbert L. Weinberg, Attorney at Law. The corporate entity Mr. Weinberg represented was the Vermont Pharmacy & Medical Supplies presently seeking licensure under the new ownership of Armen Grigorian and Narine Arutunyan.

Mr. Weinberg did not represent the presently licensed Vermont Pharmacy & Medical Supplies owned by Hakop Demirchian. No appearance was made by or on behalf of that entity.

Respondent, Trinidad M. Bagoyo, did not appear at the hearing. However, on May 5, 2009, she signed a "Stipulated Interim Suspension of License" agreement, according to which she agreed that her Registered Pharmacist License Number 22293 was temporarily suspended pending the resolution of the administrative proceeding. Ms. Bagoyo having agreed to an interim suspension of her registered pharmacist license, the matter proceeded against Respondents Vermont Pharmacy & Medical Supplies and Narine Arutunyan only.

The written evidence and legal argument submitted by Petitioner[1] having been read, heard and considered, and after oral argument, the Administrative Law Judge makes the following Order:

FACTUAL FINDINGS

The Administrative Law Judge makes the following Factual Findings:

Respondents do not dispute the factual allegations set forth in the Petition for Interim Suspension Order. Those allegations are set forth verbatim below, and are incorporated herein as factual findings.

> On or about November 7, 2008, the Board received a Community Pharmacy Permit Application ("Application") for change of ownership of Respondent Vermont Pharmacy from Hakop Demirchian to Armen Grigorian ("Applicant Grigorian") and Respondent Arutunyan. Pending issuance of a new permit, new owners Applicant Grigorian and Respondent Arutunyan, along with Pharmacist-in-Charge Respondent Bagoyo have been operating Respondent Vermont Pharmacy by dispensing and ordering dangerous drugs and controlled substances without a permit, and ha[ve] relocated Respondent Vermont Pharmacy from Los Angeles to North Hollywood without prior Board approval.
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> [¶] . . . [¶]

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[1] No opposition papers were filed.

1. Petitioner is duly appointed and serving as Executive Officer of the Board, and files this Petition in her official capacity.

2. On or about October 30, 2006, the Board issued Retail Pharmacy License Number 48275 to Respondent Vermont Pharmacy, with Hakop Demirch[y]an as owner and Respondent Bagoyo as Pharmacist-In-Charge. The Retail Pharmacy License was in full force and effect at all times relevant to the charges brought herein and will expire on October 1, 2009, unless renewed. . . .

3. On or about November 6, 1961, the Board issued Registered Pharmacist License Number 22293 to Respondent Bagoyo. The Registered Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2010, unless renewed. . . .

4. On or about October 17, 2008, the Board issued Pharmacy Technician Registration Number 86550 to Respondent Arutunyan. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2010, unless renewed. . . .

[¶] . . . [¶]

11. On or about November 7, 2008, the Board received the Application and related documents from Applicant Grigorian for change of ownership for Respondent Vermont Pharmacy. The proposed new owner/buyer/president is Applicant Grigorian, with Respondent Bagoyo as the pharmacist-in-charge, and Respondent Arutunyan as the secretary and co-owner. The seller/former owner is Hakop Demirch[y]an. The Application is still pending before the Board.

12. On the Certification of Personnel submitted along with the Application, Applicant Grigorian signed under penalty of perjury on November 6, 2008 and checked "No" to the following question:

> "Have you ever been convicted of, or pled no contest to, a violation of any law of a foreign country, the United States, any state or local jurisdiction? You must include all misdemeanor and felony convictions, regardless of the age of the conviction, including those which have been set aside and/or dismissed under Penal Code section 1000 or 1203.4. (Traffic violations of $500 or less need not be reported.) If 'yes', please attach an explanation which must include the type of violation, the date, circumstances and location, and the complete penalty received."

13. On or about November 20, 2008, the Board notified Applicant Grigorian that a permit was ready to be issued upon receipt of additional documents from Applicant Grigorian showing that the sale of the pharmacy had occurred.

14. On or about November 24, 2008, the Board received a notification of subsequent arrests and convictions on Applicant Grigorian and referred the case to the Board's enforcement unit for investigation. Subsequent investigation revealed that Applicant Grigorian was convicted of the following crimes but failed to disclose them on the Certification of Personnel. This constitutes a violation of [Business and Professions] Code[2] section 4301, subdivision (g):

a. On or about August 24, 1990, in the Newport Beach Municipal Court, Applicant Grigorian was convicted of a violation of Penal Code section 12020, subdivision (a) – possess/manufacture/sell dangerous weapon, a misdemeanor;

b. On or about April 26, 1993, in the East Los Angeles Municipal Court, Applicant Grigorian was convicted of a violation of Penal Code section 12025, subdivision (a) – carry concealed weapon in vehicle, a misdemeanor;

c. On or about January 17, 2008, in the Redwood City Municipal Court, Applicant Grigorian was convicted of a violation of Vehicle Code section 23152, subdivision (b) – driving under the influence of alcohol, a misdemeanor.

15. From about September, 2008 to February, 2009, Applicant Grigorian, Respondent Bagoyo and/or Respondent Arutunyan ordered and dispensed drugs without having received a permit from the Board. This is [a] violation of Code sections 4110, subdivision (a) and 4201, subdivision (f).

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[2] All statutory references are to the Business and Professions Code unless otherwise indicated.

16. On or about March 4, 2009, the Board received additional documents from Applicant Grigorian, including a new Community Pharmacy Permit application and Certification of Personnel, both signed on February 18, 2009, requesting a change of location. The corporate and financial documents Applicant Grigorian submitted show that the sale of Respondent Vermont Pharmacy had already occurred in October, 2008, and the new owners ha[d] been operating Respondent Vermont Pharmacy without Board approval, a violation of Code sections 4110, subdivision (a) and 4201, subdivision (f). The documents also indicate that Respondent Vermont Pharmacy had already been relocated to 6320 Laurel Canyon Blvd., North Hollywood, CA 91606 as of about January, 2009 without Board approval. This constitutes an impermissible transfer of permit, a violation of Code section 4201, subdivision (f).

17. On the new Certification of Personnel, Applicant Grigorian signed under penalty of perjury on February 18, 2009 and checked "No" to the question:

> "Have you ever been convicted of, or pled no contest to, a violation of any law of a foreign country, the United States, any state or local jurisdiction? You must include all misdemeanor and felony convictions, regardless of the age of the conviction, including those which have been set aside and/or dismissed under Penal Code section 1000 or 1203.4. (Traffic violations of $500 or less need not be reported.) If 'yes', please attach an explanation which must include the type of violation, the date, circumstances and location, and the complete penalty received."

As referenced above, subsequent investigation revealed that Applicant Grigorian suffered three (3) convictions but failed to disclose them on the new Certification of Personnel. This constitutes a violation of Code section 4301, subdivision (g).

18. On or about March 26, 2009, the Board conducted an inspection of Respondent Vermont Pharmacy at its new location, 6320 Laurel Canyon Blvd., North Hollywood, CA 91606. Applicant Grigorian informed the inspectors that he purchased the pharmacy in September, 2008 and took over the business on October 1, 2008. This is [a] violation of Code section 4110, subdivision (a) and 4201, subdivision (f). Pharmacy records were found on the unlicensed premise[s] in North Hollywood, a violation of Code section 4105, subdivision (a).

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19. During a telephonic interview with Board inspectors on March 26, 2009. Respondent Bagoyo confirmed that she knew the pharmacy moved, and she inventoried and packed the drugs but did not know where the drugs or pharmacy records were. This constitutes gross negligence and a violation of Code section 4301, subdivision (c). Respondent Bagoyo also violated Code section 4201, subdivision (f) by allowing former owner Hakop Demirchyan to transfer ownership to Applicant Grigorian without Board approval, and by allowing Respondent Vermont Pharmacy to operate without a permit.

20. During the inspection, Pharmacist and Technician Marine Khachatryan[3] (TCH-27156), speaking on behalf of owner Respondent Arutunyan, informed the Board inspectors that the pharmacy was properly licensed and showed the inspectors a renewal permit which belonged to Respondent Vermont Pharmacy under the former ownership.

21. Board inspectors issued Applicant Grigorian a cease-and-desist order until such time as Respondent Vermont Pharmacy was properly licensed, and ordered the records and computers be moved to a Board-licensed premise.

[¶] . . . [¶]

22. Applicant Grigorian, Respondent Bagoyo and Respondent Arutunyan have been ordering and dispensing controlled substances and dangerous drugs without a valid permit since September, 2008, and had relocated Respondent Vermont Pharmacy to an unlicensed premise[s] without prior Board approval. The Applications for change of ownership and location are currently under investigation because Applicant Grigorian failed to disclose three (3) convictions in the Application.

LEGAL CONCLUSIONS

1. Respondents have engaged in acts or omissions constituting violations of the California Pharmacy Law (Bus. & Prof. Code, § 4000 et seq.).

2. Permitting Respondents to continue to engage in the licensed activity would endanger the public health, safety and/or welfare.

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[3] Pharmacist Technician Marine Khachatryan is not charged in this Petition.

3. As indicated above, Respondent Bagoyo stipulated to an interim suspension of her pharmacist's license. Respondents Vermont Pharmacy & Medical Supplies and Narine Arutunyan made the following arguments in opposition to the Petition for Interim Suspension Order:

a. The violations that occurred were inadvertent and were due to poor understanding of the English language by Respondent Arutunyan and Applicant Grigorian. The application was filled out by a consultant and was signed without reading it.

b. Respondent Vermont Pharmacy & Medical Supplies is not open for business and is not yet licensed. Therefore, its license cannot be suspended by an interim suspension order.

c. Respondent Arutunyan is the sole owner of the shares of the corporate entity seeking licensure. Respondent Arutunyan is not presently working.

d. Approximately 1.5 years ago, the Board changed its policy by declining to issue a permit for change of ownership of a pharmacy until after the pharmacy, under the prior ownership, has closed. Therefore, new owners operating under the old permit does not constitute a violation of the pharmacy law.

e. Respondents concede that Respondent Bagoyo was not on-site performing her duties as pharmacist-in-charge while Vermont Pharmacy & Medical Supplies was operating under new ownership. They argue, however, that under California law, a pharmacy may operate without a pharmacist-in-charge for 120 days.

f. Although the new owners moved the pharmacy without a permit to do so, they did not sell drugs at the new location, and no drugs were ever present in the new location. In fact, at the time of the March 26, 2009 inspection, no sign was posted to indicate that a pharmacy was present at that location.

g. Respondents' counsel offered to present testimony to support the above arguments.

4. Respondents' arguments were not persuasive for the following reasons:

a. Respondents were responsible for the accuracy of all documents submitted to the Board. The facts that the consultant provided inaccurate information and that Respondents failed to read the documents, or translated for them, before signing, inures to their detriment in that they are vicariously liable for the wrongdoing of their agent. (*Rob-Mac, Inc. v. Department of Motor Vehicles* (1983) 148 Cal.App.3d 793, 797; *Camacho v. Youde* (1979) 95 Cal.App.3d 161, 165.)

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b. Respondents are correct that the Board cannot suspend the pharmacy's license held by the new owners because the application for that license is still pending, and the license has not been issued. However, the Board does not seek to suspend that unissued license. It seeks to suspend the presently existing license held by Hakop Demirch[y]an.

c. Respondents concede that, although Respondent Arutunyan is not presently working, she is not precluded from doing so at any time.

d (1). Respondents offered no evidence to support their claim that the Board has changed its policy regarding pharmacy closure prior to the issuance of a change of ownership permit. However, regardless of whether the Board requires closure of a pharmacy before permitting a change of ownership, the clear language of the statute controls. Code section 4110, states in relevant part:

> (a) No person shall conduct a pharmacy in the State of California unless he or she has obtained a license from the board. A license shall be required for each pharmacy owned or operated by a specific person. A separate license shall be required for each of the premises of any person operating a pharmacy in more than one location. The license shall be renewed annually. The board may, by regulation, determine the circumstances under which a license may be transferred.
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> (b) The board may, at its discretion, issue a temporary permit, when the ownership of a pharmacy is transferred from one person to another, upon the conditions and for any periods of time as the board determines to be in the public interest.

d (2). The statute prohibits an entity from operating a pharmacy until it has been licensed to do so by the Board, except when the Board issues a temporary permit allowing the entity to operate pending license application approval. The issuance of a temporary permit is within the Board's discretion. Respondents were prohibited from operating or moving Vermont Pharmacy & Medical Supplies because they were neither licensed nor permitted to do so.

d (3). The fact that Respondent Arutunyan and Applicant Grigorian held themselves out as the owners of Respondent Vermont Pharmacy & Medical Supplies, and ordered and dispensed controlled substances and dangerous drugs through that pharmacy while their license application was pending, reinforces the importance of suspending the license of Respondent Vermont Pharmacy & Medical Supplies in order to protect the public pending the final disposition of this case.

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e. Respondents are correct that a pharmacy may operate without a designated pharmacist-in-charge for a period not to exceed 120 days. However, during the period that the pharmacy is so operating, an interim pharmacist-in-charge must be designated. (Cal. Code Regs., tit. 16, § 1709.1, subd. (e).) That was not done in this case. Further, the designation and presence of a pharmacist-in-charge presupposes proper licensure or a temporary permit to operate. In this case, Respondents held neither a pharmacy license nor a temporary permit. They were therefore not authorized to operate a pharmacy whether or not a designated pharmacist-in-charge was on site.

f. The facts in the Petition for Interim Suspension Order to which Respondents stipulated as true belie their argument that drugs were not sold from the Laurel Canyon location. Paragraph 16 of the Petition alleges that the pharmacy's location was moved from the Los Angeles address to the North Hollywood address "as of about January, 2009 . . ." and that Applicant Grigorian, Respondent Bagoyo and/or Respondent Arutunyan ordered and dispensed drugs, without a permit issued by the Board, between approximately September 2008 and February 2009. Further, even had Respondents been correct that no drugs were ordered or dispensed from the North Hollywood location, that fact could serve only as a factor in mitigation to the numerous and serious violations of the pharmacy law that occurred in this case.[4]

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[4] Respondents are correct that no drugs were located on the premises in North Hollywood at the time of the March 26, 2009 inspection, and no sign was posted indicating the presence of a pharmacy. Those facts also constitute factors in mitigation. However, the facts offered in mitigation are insufficient to overcome the evidence favoring interim license suspensions in this case.

g. Although Respondent's counsel stated in his argument that he could offer witnesses to testify in support of his argument, no attempt to do so was made either by way of live testimony or by way of declaration or affidavit. Therefore, any factual claims made in Respondents' argument were unsupported by the evidence. Further, unlike Government Code section 11529[5], which provides the Administrative Law Judge discretion to allow oral testimony during the hearing, Business and Professions Code section 494, under which the present action has been brought, allows no such discretion[6].

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. The Petition for Interim Order of Suspension is granted.

2. Retail Pharmacy License No. 48275, issued to Respondent, Vermont Pharmacy & Medical Supplies, and Pharmacy Technician Registration No. 86550, issued to Respondent Narine Arutunyan, and all licensing rights appurtenant thereto, are suspended pending a full administrative determination of Respondents' fitness to practice pharmacy.

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[5] Government Code section 11529 addresses petitions for interim suspension orders brought against physicians and members of the allied health professions.

[6] Government Code section 11529, subdivision (c)(3), states in relevant part: "The discretion of the administrative law judge to permit testimony at the hearing conducted pursuant to this section shall be identical to the discretion of a superior court judge to permit testimony at a hearing conducted pursuant to Section 527 of the Code of Civil Procedure." Business and Professions Code section 494 does not contain a similar provision. Pursuant to subdivision (d) of that statute, a respondent's rights at the hearing on a petition for interim suspension order are limited to the following: "(d) At the hearing on the petition for an interim order, the licentiate may: (1) Be represented by counsel. (2) Have a record made of the proceedings, copies of which shall be available to the licentiate upon payment of costs computed in accordance with the provisions for transcript costs for judicial review contained in Section 11523 of the Government Code. (3) Present affidavits and other documentary evidence. (4) Present oral argument."

3. Respondents, and, in the case of Vermont Pharmacy & Medical Supplies, its owners, operators, officers and/or directors, shall not:

a. Practice or attempt to practice any aspect of pharmacy in the State of California until the decision of the Board following an administrative hearing;

b. Be present in any location which is maintained for the purpose of pharmacy, or at which pharmacy is practiced, for any purpose, except as a patient;

c. Advertise, by any means, or hold themselves out as practicing or available to practice pharmacy.

4. Respondents shall, within seven days of the date of this order, deliver to the Board, or its agent, for safekeeping pending a final administrative order of the Board in this matter, all indicia of licensure as a pharmacy and/or pharmacy technician, including, but not limited to, their wall certificates and wallet cards issued by the Board.

5. Petitioner shall, within 15 days of the issuance of this order, file and serve an Accusation in conformance with Government Code section 11505, against Respondents on the charges herein alleged.

DATED: May 11, 2009

H. STUART WAXMAN
Administrative Law Judge
Office of Administrative Hearings

DECLARATION OF SERVICE

Case Name: VERMONT PHARMACY & MEDICAL SUPPLIES; TRINIDAD M. BAGOYO; NARINE ARUTUNYAN

OAH No.: 2009040779

I, Rosario Magalit, declare as follows: I am over 18 years of age and am not a party to this action. I am employed by the Office of Administrative Hearings. My business address is 320 W. Fourth Street, Suite 630, Los Angeles, California. On May 11, 2009, I served a copy of the following document(s) in the action entitled above:

ORDER GRANTING INTERIM SUSPENSION

to each of the person(s) named below at the addresses listed after each name by the following method(s):

Linda L. Sun, Deputy Attorney General
Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

Fax No.: (213) 897-2804

Herbert L. Weinberg, Attorney at Law
McGuireWoods LLP
1800 Century Park East, 8th Floor
Los Angeles, CA 90067

Fax No.: (310) 315-8210

☐ **United States Mail.** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the address(es) listed above, and placed the envelope or package for collection and mailing, in accordance with the Office of Administrative Hearings' ordinary business practices, in Los Angeles, California. I am readily familiar with the Office of Administrative Hearings' practice for collecting and processing documents for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope or package with postage fully prepaid [☐ by certified mail].

☒ **Overnight Delivery.** I enclosed the above-described document(s) in a sealed envelope or package addressed to the person(s) at the address(es) listed above, and placed the envelope or package with overnight delivery fees paid at an office or a location regularly utilized for collection and overnight delivery by an authorized overnight delivery courier.

☒ **Fax Transmission.** I personally transmitted the above-described document(s) to the person(s) at the fax number(s) listed above, from fax machine number (213) 576-7244, pursuant to Government Code section 11440.20 and California Code of Regulations, title 1, section 1008, subdivision (d). The fax transmission was reported as complete and without error. A copy of the transmission report showing the date and time of transmission, properly issued by the transmitting machine, is attached to this declaration of service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed at Los Angeles, California on May 11, 2009.

Rosario Magalit

Rosario Magalit, Declarant

EXHIBIT 2

EDMUND G. BROWN JR., Attorney General
of the State of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General
LINDA L. SUN, State Bar No. 207108
Deputy Attorney General
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-6375
Facsimile: (213) 897-2804

Attorneys for Petitioner

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

In the Matter of the Interim Suspension Order Against: **VERMONT PHARMACY & MEDICAL SUPPLIES;** **TRINIDAD M. BAGOYO,** Pharmacist-in-Charge 1012 N. Vermont Ave. Los Angeles, CA 90029 6320 Laurel Canyon Blvd. North Hollywood, CA 91606 Retail Pharmacy License No. 48275, **TRINIDAD M. BAGOYO** 30572 Sparrow Hawk Canyon Lake, CA 92587 Registered Pharmacist License No. 22293, **NARINE ARUTUNYAN** 10842 Keswick St. Sun Valley, CA 91352 323 W. Jackson St., #207 Glendale, CA 91206 Pharmacy Technician Registration No. 86550, Respondents.	Case No. 3353 **STIPULATED INTERIM SUSPENSION OF LICENSE** As to: **TRINIDAD M. BAGOYO, Respondent** Date: May 8, 2009 Time: 1:30 P.M. Place: Office of Administrative Hearings 320 West Fourth Street, Suite 630 Los Angeles, CA 90013

IT IS HEREBY STIPULATED AND AGREED by and between the parties specified in this agreement that the following matters are true:

PARTIES

1. Virginia Herold ("Petitioner") is the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs ("Board"), State of California. She brought this action solely in her official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Linda L. Sun, Deputy Attorney General.

2. On or about November 6, 1961, the Board issued Registered Pharmacist License Number 22293 to Trinidad M. Bagoyo ("Respondent Bagoyo"). The Registered Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2010, unless renewed.

3. Respondent Bagoyo is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

JURISDICTION

4. *In the Matter of the Petition for Interim Suspension Order Against Vermont Pharmacy and Medical Supplies et. al.* ("Petition"), Case No. 3353 was filed before the Board, and is currently pending against Respondent Bagoyo.

ADVISEMENT AND WAIVERS

5. Respondent Bagoyo has carefully read, and understands the charges and allegations in the Petition, Case No. 3353. Respondent Bagoyo has also carefully read, and understands the effects of this Stipulated Interim Suspension of License.

6. Respondent Bagoyo is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Petition; the right to be represented by counsel at her own expense; the right to present affidavits, documentary evidence and oral argument at the hearing; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

STIPULATION

IT IS HEREBY STIPULATED that Registered Pharmacist License Number 22293 issued to Trinidad M. Bagoyo is temporarily suspended pending resolution of the administrative proceedings.

1. The interim suspension of Respondent Bagoyo's Registered Pharmacist License shall constitute imposition of discipline against Respondent Bagoyo. This stipulation constitutes a record of the discipline and shall become a part of Respondent Bagoyo's license history with the Board;

2. Respondent Bagoyo shall lose all rights and privileges as a pharmacist in California as of the date of this fully executed Stipulated Interim Suspension of License until the resolution of an accusation to be filed before the Board against Respondent Bagoyo's license;

3. Respondent Bagoyo shall not be present in any location which is maintained for the purpose of pharmacy, or at which pharmacy is practiced, for any purpose, except as a patient;

4. Respondent Bagoyo shall not advertise, by any means, or hold herself out as practicing or available to practice pharmacy during the pendency of the administrative proceeding; and until any disciplinary action which will be filed by the Board becomes final;

5. Respondent Bagoyo shall, within 48 hours of executing this Stipulated Interim Surrender of License, deliver to the Board, or its agent, for safekeeping pending a final administrative order of the Board in this matter, all indicia of her licensure as a registered pharmacist, including, but not limited to, her wall certificate and wallet card issued by the Board.

6. The parties understand and agree that facsimile copies of this Stipulated Suspension of License, including facsimile signatures thereto, shall have the same force and effect as the originals.

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IT IS SO STIPULATED

I have carefully read and fully understand the stipulations set forth above. I understand that as a result of this Stipulated Interim Suspension of License, the Board of Pharmacy will issue a decision which includes findings that may subject my license to discipline. I enter into this Stipulated Interim Suspension of License voluntarily, knowingly, and intelligently, and agree to be bound by the conditions in this agreement.

DATED: 5/5/09

Trinidad M. Bagoyo

TRINIDAD M. BAGOYO
Respondent

IT IS SO STIPULATED

DATED: 5/6/09

EDMUND G. BROWN JR., Attorney General
of the State of California

GLORIA A. BARRIOS
Supervising Deputy Attorney General

LINDA L. SUN
Deputy Attorney General

Attorneys for Complainant

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Bagoyo ISO Stip.wpd