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

In the Matter of the Accusation Against:

Case No. 3386

THAO PHUONG LE-NGHIEM AKA THAO PHUONG LENGHIEM AKA KATHY LENGHIEM

1221 Lyndon St., #12 South Pasadena, CA 91030

Pharmacy Technician License No. TCH 70474

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 January 11, 2012.

It is so ORDERED December 12, 2011.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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Ву

STANLEY C. WEISSER Board President

1	Kamala D. Harris			
2	Attorney General of California KAREN B. CHAPPELLE			
3	Supervising Deputy Attorney General			
3	WILLIAM D. GARDNER Deputy Attorney General	•		
4	State Bar No. 244817 300 So. Spring Street, Suite 1702			
5	Los Angeles, CA 90013	·		
6	Telephone: (213) 897-2114 Facsimile: (213) 897-2804			
7	Attorneys for Complainant			
	BEFORE THE			
. 8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA			
9				
10	To the Method of the Accounting Assistant	G N- 2296		
11	In the Matter of the Accusation Against:	Case No. 3386		
12	THAO PHUONG LE-NGHIEM AKA THAO PHUONG LENGHIEM AKA	OAH No. L-2011021045		
13	KATHY LENGHIEM aka Kathy Lenghiem	STIPULATED SURRENDER OF LICENSE AND ORDER		
14	1221 Lyndon St., #12	STOLING THIS ORDER		
ŀ	South Pasadena, CA 91030 Pharmacy Technician License No. TCH			
15	70474			
16	Respondent.			
17				
18	IT IS HEREBY STIPULATED AND AGI	REED by and between the parties in this		
19	proceeding that the following matters are true:			
20	PAR	TIES		
21	1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.			
22	She brought this action solely in her official capacity and is represented in this matter by Kamala			
23	D. Harris, Attorney General of the State of California, by William D. Gardner, Deputy Attorney			
24	General.			
25	2. Thao Phuong Le-Nghiem aka Thao Phuong Lenghiem aka Kathy Lenghiem is			
26	representing herself in this proceeding and has chosen not to exercise her right to be represented			
27	by counsel.			
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3. On or about July 15, 2006, the Board of Pharmacy issued Pharmacy Technician License No. TCH 70474 to Thao Phuong Le-Nghiem aka Thao Phuong Lenghiem aka Kathy Lenghiem (Respondent). The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 3386 and will expire on November 30, 2011, unless renewed.

JURISDICTION

4. First Amended Accusation No. 3386 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The original Accusation and all other statutorily required documents were properly served on Respondent on January 12, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. The First Amended Accusation and all other statutorily requested documents were properly served on Respondent on May 5, 2011. A copy of the First Amended Accusation No. 3386 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read, and understands the charges and allegations in First Amended Accusation No. 3386. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.
- 6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in First Amended Accusation No. 3386, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician License No. TCH 70474 for the Board's formal acceptance.
- 9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacy Technician License without further process.

CONTINGENCY

- 10. 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 surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender 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.
- 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.
- 13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 70474, issued to Respondent Thao Phuong Le-Nghiem aka Thao Phuong Lenghiem aka Kathy Lenghiem, is surrendered and accepted by the Board of Pharmacy.

- 1. The surrender of Respondent's Pharmacy Technician License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.
- 2. Respondent shall lose all rights and privileges as a pharmacy technician in California as of the effective date of the Board's Decision and Order.
- 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.
- 4. Respondent understands and agrees that if she ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the application is filed, and all of the charges and allegations contained in First Amended Accusation No. 3386 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application.
- 5. Respondent shall not apply for licensure or petition for reinstatement for three (3) years from the effective date of the Board's Decision and Order.
- 6. Respondent stipulates that should she apply for any license from the Board on or after the effective date of this decision, investigation and prosecution costs in the amount of \$6,845.00 shall be paid to the Board prior to issuance of the license.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician License. I enter into this ///

- 1			
1	Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to		
2	be bound by the Decision and Order of the Board of Pharmacy.		
3	DATED: 9/19/11 MOW DE MYWEM		
5	THAO PHUONG LE-NGHIEM AKA THAO PHUONG LENGHIEM AKA KATHY		
6	LENGHIEM Respondent		
7	кезроваем		
8	ENDORSEMENT		
9	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted		
10	for consideration by the Board of Pharmacy of the Department of Consumer Affairs.		
11	Dated: September, 2011 Respectfully submitted,		
12	KAMALA D. HARRIS Attorney General of California		
13	Karen B. Chappelle Supervising Deputy Attorney General		
14	Supervising Deputy Attorney General		
15			
16	WILLIAM D. GARDNER Deputy Attorney General		
17	Attorneys for Complainant		
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1	Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to			
2	be bound by the Decision and Order of the Boa	rd of Pharmacy.		
3				
4	DATED:	WILL O DIVIDING LE MONTON A LICE MILLO		
5	·	THAO PHUONG LE-NGHIEM AKA THAO HUONG LENGHIEM AKA KATHY		
6	II '	ENGHIEM Lespondent		
7.				
8	ENDORSEMENT			
9	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted			
10	for consideration by the Board of Pharmacy of the Department of Consumer Affairs.			
11	Dated: September <u>19</u> , 2011	Respectfully submitted,		
12		KAMALA D. HARRIS Attorney General of California		
13		KAREN B. CHAPPELLE Supervising Deputy Attorney General		
14				
15		Mu O Com		
16		WILLIAM D. GARDNER Deputy Attorney General		
17		Attorneys for Complainant		
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Exhibit A

First Amended Accusation No. 3386

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1	EDMUND G. BROWN JR. Attorney General of California		
2	GLORIA A. BARRIOS		
3	Supervising Deputy Attorney General LINDA L. SUN	•	
4	Deputy Attorney General State Bar No. 207108		
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013		
6	Telephone: (213) 897-6375 Facsimile: (213) 897-2804		
7	Attorneys for Complainant		
8	BEFORE T	THE	
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF CAL		
11	In the Matter of the First Amended Accusation	Case No. 3386	
12	Against:	Case 140, 5500	
13	THAO PHUONG LE-NGHIEM aka THAO PHUONG LENGHIEM	FIRST AMENDED ACCUSATION	
14	aka KATHY LENGHIEM 1221 Lyndon St., #12		
15	South Pasadena, CA 91030		
16	Pharmacy Technician License No. TCH 70474		
17	Respondent.		
18	· · · · · · · · · · · · · · · · · · ·		
19	Complainant alleges:		
20	PARTIE	<u>s</u>	
21	1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her		
22	official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer		
23	Affairs (Board).		
24	2. On or about July 15, 2006, the Board issued Pharmacy Technician License No. TCH		
25	70474 to Thao Phuong Le-Nghiem aka Thao Phuong Lenghiem aka Kathy Lenghiem		
26	(Respondent). The Pharmacy Technician License was in full force and effect at all times relevan		
27	to the charges brought herein and will expire on November 30, 2011, unless renewed.		
28	///		
Ì		AG - EX. 1 - 00001	

JURISDICTION

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

STATUTORY PROVISIONS

- 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
- 5. Section 490 provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- 6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or revoked."
 - 7. Section 4301 states, in pertinent part:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct shall include, but is not limited to, any of the following:

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

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. . . ."

REGULATORY PROVISIONS

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

"For the purpose of denial, suspension, or revocation of a personal or facility license

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pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crimes)

- 10. Respondent is subject to disciplinary action under sections 490, 4300, subdivision (a), 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of crimes substantially related to the qualifications, duties and functions of a licensee which to a substantial degree evidence her present or potential unfitness to perform the functions authorized by her license in a manner consistent with the public health, safety, or welfare, as follows:
- a. On or about October 22, 2010, after pleading no lo contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 459 [petty theft] in the criminal proceeding entitled *The People of the State of California v. Thao Lenghiem* (Super. Ct. Los Angeles County, 2009, No. GA078526). The Court placed Respondent on three (3) years probation and ordered her to stay away from Rite Aid, 914 Fair Oaks, South Pasadena, California.
- b. The circumstances of the conviction are that on or about November 30, 2009,
 Respondent entered Rite Aid, removed cosmetic items valued at \$18, and exited the store without paying for the items.

AG-EX.1-00003

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c. On or about October 5, 2009, Respondent was convicted by the jury of one felony count of violating Penal Code section 32 [accessory after the fact] in the criminal proceeding *The People of the State of California v. Thao Phuong Le Nghiem* (Super. Ct. Los Angeles County, 2009, No. GA070684). Respondent was ordered to serve 40 months in state prison, to register as a street gang participant, among others. On or about November 13, 2009, Respondent was released on parole with 1,218 days credit for time served. Respondent filed an appeal. On or about March 18, 2011, the appellate court issued a decision affirming the judgment.

d. The circumstances surrounding the conviction are that in 2006, Respondent was a member of the Asian street gang "Wah Ching". On or about December 1, 2006, Respondent was in the car with D.D., a Wah Ching gang member who was out on probation, G.Q., Respondent's boyfriend and a former Wah Ching gang member, and another male known as "Paul". The four of them drove up to a popular café Lollicup in San Gabriel. As their car approached the crowd outside the café, D.D. pulled out a gun and fired several rounds at a group of youngsters, injuring one and fatally killing another. On December 5, 2006, while interviewed by the detectives, Respondent denied she was at Lollicup with D.D., G.Q. or Paul the evening of the shooting. On or about August 28, 2007, during a second interview by the detectives, Respondent recanted her previous statements and admitted that she was with the other three on December 1, 2006 and witnessed the shooting, but claimed she was threatened by D.D. thereafter.

SECOND CAUSE FOR DISCIPLINE

(Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

11. Respondent is subject to disciplinary action under sections 4300, subdivision (a), and 4301, subdivision (f), on the grounds of unprofessional conduct, in that on or about December 1, 2006 and November 30, 2009, she committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 10 inclusive, as though set forth fully.

AG-EX.1-00004

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PRAYER

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

- 1. Revoking or suspending Pharmacy Technician License No. TCH 70474, issued to Respondent;
- 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
 - 3. Taking such other and further action as deemed necessary and proper.

DATED: 4/29/11

VIRGINIA HEROLD

Executive Officer Board of Pharmacy

Department of Consumer Affairs

State of California

Complainant

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LA2009603811

12/15/2010dmm

AG-EX. 1 - 00005