

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

In the Matter of the Accusation Against:

**YIN TAT WILLIAM KHO
2033 Christie Street
Fullerton, CA 92833**

Pharmacist License No. RPH 49713

Respondent.

Case No. 3860

OAH No. 2011070193

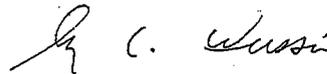
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 May 4, 2012.

It is so ORDERED on April 4, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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

11 In the Matter of the Accusation Against:
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13 **YIN TAT WILLIAM KHO**
2033 Christie Street
14 Fullerton, CA 92833
15 **Pharmacist License No. RPH 49713**
16 Respondent.

Case No. 3860

OAH No. 2011070193

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

22 **PARTIES**

23 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
24 She brought this action solely in her official capacity and is represented in this matter by Kamala
25 D. Harris, Attorney General of the State of California, by David E. Hausfeld, Deputy Attorney
26 General.

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1 **CULPABILITY**

2 8. Respondent admits the truth of each and every charge and allegation in First
3 Amended Accusation No. 3860.

4 9. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
5 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

6 **CONTINGENCY**

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

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

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

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

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1 **3. Interview with the Board**

2 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
3 with the Board or its designee, at such intervals and locations as are determined by the Board or
4 its designee. Failure to appear for any scheduled interview without prior notification to Board
5 staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee
6 during the period of probation, shall be considered a violation of probation.

7 **4. Cooperate with Board Staff**

8 Respondent shall cooperate with the Board's inspection program and with the Board's
9 monitoring and investigation of Respondent's compliance with the terms and conditions of his
10 probation. Failure to cooperate shall be considered a violation of probation.

11 **5. Continuing Education**

12 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
13 pharmacist as directed by the Board or its designee.

14 **6. Notice to Employers**

15 During the period of probation, Respondent shall notify all present and prospective
16 employers of the decision in First Amended Accusation No. 3860 and the terms, conditions and
17 restrictions imposed on Respondent by the decision, as follows:

18 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
19 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
20 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
21 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
22 individual(s) has/have read the decision in First Amended Accusation No. 3860, and terms and
23 conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s)
24 and/or supervisor(s) submit timely acknowledgment(s) to the Board.

25 If Respondent works for or is employed by or through a pharmacy employment service,
26 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
27 licensed by the Board of the terms and conditions of the decision in First Amended Accusation
28

1 No. 3860 in advance of the Respondent commencing work at each licensed entity. A record of
2 this notification must be provided to the Board upon request.

3 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
4 (15) days of Respondent undertaking any new employment by or through a pharmacy
5 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
6 service to report to the Board in writing acknowledging that he has read the decision in First
7 Amended Accusation No. 3860 and the terms and conditions imposed thereby. It shall be
8 Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
9 acknowledgment(s) to the Board.

10 Failure to timely notify present or prospective employer(s) or to cause that/those
11 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
12 probation.

13 "Employment" within the meaning of this provision shall include any full-time,
14 part-time, temporary, relief or pharmacy management service as a pharmacist or any
15 position for which a pharmacist license is a requirement or criterion for employment,
16 whether the Respondent is an employee, independent contractor or volunteer.

17 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
18 **Designated Representative-in-Charge, or Serving as a Consultant**

19 During the period of probation, Respondent shall not supervise any intern pharmacist, be
20 the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the
21 Board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
22 unauthorized supervision responsibilities shall be considered a violation of probation.

23 **8. Reimbursement of Board Costs**

24 As a condition precedent to successful completion of probation, Respondent shall pay to the
25 Board its costs of investigation and prosecution in the amount of \$3,800.00. Respondent shall
26 submit, for the Board's approval, within thirty (30) days of the effective date of the adoption by
27 the Board of this Order, a proposed payment schedule. There shall be no deviation from the
28

1 approved schedule absent prior written approval by the Board or its designee. Failure to pay costs
2 by the deadline(s) as directed shall be considered a violation of probation.

3 There shall be no deviation from this schedule absent prior written approval by the Board or
4 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
5 probation.

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

8 **9. Probation Monitoring Costs**

9 Respondent shall pay any costs associated with probation monitoring as determined by the
10 Board each and every year of probation. Such costs shall be payable to the Board on a schedule
11 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
12 shall be considered a violation of probation.

13 **10. Status of License**

14 Respondent shall, at all times while on probation, maintain an active, current license with
15 the Board, including any period during which suspension or probation is tolled. Failure to
16 maintain an active, current license shall be considered a violation of probation.

17 If Respondent's license expires or is cancelled by operation of law or otherwise at any time
18 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
19 renewal or reapplication Respondent's license shall be subject to all terms and conditions of this
20 probation not previously satisfied.

21 **11. License Surrender While on Probation/Suspension**

22 Following the effective date of this decision, should Respondent cease practice due to
23 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
24 Respondent may tender his license to the Board for surrender. The Board or its designee shall
25 have the discretion whether to grant the request for surrender or take any other action it deems
26 appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent
27 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
28 record of discipline and shall become a part of the Respondent's license history with the Board.

1 Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall license
2 to the Board within ten (10) days of notification by the Board that the surrender is accepted.
3 Respondent may not reapply for any license from the Board for three (3) years from the effective
4 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
5 of the date the application for that license is submitted to the Board, including any outstanding
6 costs.

7 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
8 **Employment**

9 Respondent shall notify the Board in writing within ten (10) days of any change of
10 employment. Said notification shall include the reasons for leaving, the address of the new
11 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
12 shall further notify the Board in writing within ten (10) days of a change in name, residence
13 address, mailing address, or phone number.

14 Failure to timely notify the Board of any change in employer(s), name(s), address(es), or
15 phone number(s) shall be considered a violation of probation.

16 **13. Tolling of Probation**

17 Except during periods of suspension, Respondent shall, at all times while on probation, be
18 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.
19 Any month during which this minimum is not met shall toll the period of probation, i.e., the
20 period of probation shall be extended by one month for each month during which this minimum is
21 not met. During any such period of tolling of probation, Respondent must nonetheless comply
22 with all terms and conditions of probation.

23 Should Respondent, regardless of residency, for any reason (including vacation) cease
24 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,
25 Respondent must notify the Board in writing within ten (10) days of the cessation of practice, and
26 must further notify the Board in writing within ten (10) days of the resumption of practice. Any
27 failure to provide such notification(s) shall be considered a violation of probation.

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1 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
2 provisions of this condition for a total period, counting consecutive and non-consecutive months,
3 exceeding thirty-six (36) months.

4 "Cessation of practice" means any calendar month during which Respondent is
5 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and
6 Professions Code section 4000 et seq . "Resumption of practice" means any calendar
7 month during which Respondent is practicing as a pharmacist for at least forty (40)
8 hours as a pharmacist as defined by Business and Professions Code section 4000 et
9 seq.

10 14. **Violation of Probation**

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

16 If Respondent violates probation in any respect, the Board, after giving Respondent notice
17 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
18 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
19 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
20 a petition to revoke probation or an accusation is filed against Respondent during probation, the
21 Board shall have continuing jurisdiction and the period of probation shall be automatically
22 extended until the petition to revoke probation or accusation is heard and decided.

23 15. **Completion of Probation**

24 Upon written notice by the Board or its designee indicating successful completion of
25 probation, Respondent's license will be fully restored.

26 16. **Community Services Program**

27 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
28 Board or its designee, for prior approval, a community service program in which Respondent

1 shall provide free health-care related services on a regular basis to a community or charitable
2 facility or agency for one hundred (100) hours for each year of probation. Within thirty (30) days
3 of Board approval thereof, Respondent shall submit documentation to the Board demonstrating
4 commencement of the community service program. A record of this notification must be
5 provided to the Board upon request. Respondent shall report on progress with the community
6 service program in the quarterly reports. Failure to timely submit, commence, or comply with the
7 program shall be considered a violation of probation.

8 **17. Supervised Practice**

9 During the period of probation, Respondent shall practice only under the supervision of a
10 licensed pharmacist not on probation with the Board. Upon and after the effective date of this
11 decision, Respondent shall not practice pharmacy and his license shall be automatically
12 suspended until a supervisor is approved by the Board or its designee. The supervision shall be,
13 as required by the Board or its designee, either:

14 Continuous – At least 75% of a work week

15 Substantial - At least 50% of a work week

16 Partial - At least 25% of a work week

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

18 Within thirty (30) days of the effective date of this decision, Respondent shall have his
19 supervisor submit notification to the Board in writing stating that the supervisor has read the
20 decision in First Amended Accusation No. 3860 and is familiar with the required level of
21 supervision as determined by the Board or its designee. It shall be the Respondent's
22 responsibility to ensure that his employer(s), pharmacist-in-charge and/or supervisor(s) submit
23 timely acknowledgement(s) to the Board. Failure to cause the direct supervisor and the
24 pharmacist-in-charge to submit timely acknowledgements to the Board shall be considered a
25 violation of probation.

26 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
27 that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
28 acknowledgement(s) to the Board. Respondent shall have his new supervisor, within fifteen (15)

1 days after employment commences, submit notification to the Board in writing stating the direct
2 supervisor and pharmacist-in-charge have read the decision in First Amended Accusation No.
3 3860 and is familiar with the level of supervision as determined by the Board. Respondent shall
4 not practice pharmacy and his license shall be automatically suspended until the Board or its
5 designee approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-
6 charge to submit timely acknowledgements to the Board shall be considered a violation of
7 probation.

8 Within ten (10) days of leaving employment, Respondent shall notify the Board in writing.

9 During suspension, Respondent shall not enter any pharmacy area or any portion of the
10 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
11 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
12 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
13 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
14 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
15 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
16 and controlled substances. Respondent shall not resume practice until notified by the Board.

17 During suspension, Respondent shall not engage in any activity that requires the
18 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
19 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
20 designated representative for any entity licensed by the Board.

21 Subject to the above restrictions, Respondent may continue to own or hold an interest in
22 any licensed premises in which he holds an interest at the time this decision becomes effective
23 unless otherwise specified in this order.

24 Failure to comply with this suspension shall be considered a violation of probation.

25 **18. No Ownership of Licensed Premises**

26 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
27 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
28 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell

1 or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90)
 2 days following the effective date of this decision and shall immediately thereafter provide written
 3 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide
 4 documentation thereof shall be considered a violation of probation.

5 **19. Ethics Course**

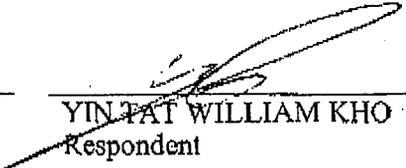
6 Within sixty (60) calendar days of the effective date of this decision, Respondent shall
 7 enroll in a course in ethics, at Respondent's expense, approved in advance by the Board or its
 8 designee. Failure to initiate the course during the first year of probation, and complete it within
 9 the second year of probation, is a violation of probation.

10 Respondent shall submit a certificate of completion to the Board or its designee within five
 11 days after completing the course.

12 **ACCEPTANCE**

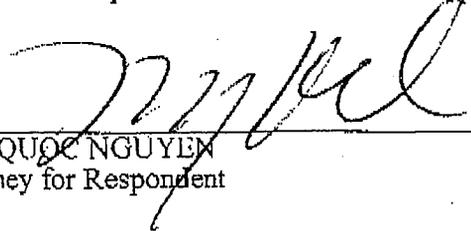
13 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
 14 discussed it with my attorney, Lan Quoc Nguyen. I understand the stipulation and the effect it
 15 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
 16 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
 17 of the Board of Pharmacy.

18 DATED: 2-13-2012

19 
 YIN TAT WILLIAM KHO
 Respondent

20 I have read and fully discussed with Respondent Yin Tat William Kho the terms and
 21 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
 22 I approve its form and content.

23 DATED: Feb. 13, 2012

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 LAN QUOC NGUYEN
 Attorney for Respondent

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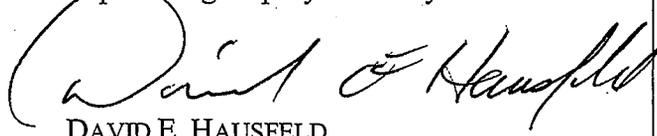
ENDORSEMENT

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: 2/14/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



DAVID E. HAUSFELD
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 3860

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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 DAVID E. HAUSFELD
Deputy Attorney General
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9 **BEFORE THE**
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10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 3860

12 **YIN TAT WILLIAM KHO**
13 **2033 Christie Street**
14 **Fullerton, CA 92833**

FIRST AMENDED ACCUSATION

15 **Pharmacist License No. RPH 49713**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 27, 1997, the Board of Pharmacy issued Original Pharmacist
23 License Number RPH 49713 to Yin Tat William Kho (Respondent). The Original Pharmacist
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on May 31, 2013, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

5 4. Section 4300 of the Code states:

6 (a) Every license issued may be suspended or revoked.

7 (b) The board shall discipline the holder of any license issued by the board,
8 whose default has been entered or whose case has been heard by the board and
found guilty, by any of the following methods:

9 (1) Suspending judgment.

10 (2) Placing him or her upon probation.

11 (3) Suspending his or her right to practice for a period not exceeding one
12 year.

13 (4) Revoking his or her license.

14 (5) Taking any other action in relation to disciplining him or her as the board
15 in its discretion may deem proper.

16

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

21 **STATUTORY PROVISIONS**

22 6. Section 490 of the Code provides, in pertinent part, that a Board may suspend or
23 revoke a license on the ground that the licensee has been convicted of a crime substantially
24 related to the qualifications, functions, or duties of the business or profession for which the
25 license was issued.

26 7. Section 493 of the Code states:

27 Notwithstanding any other provision of law, in a proceeding conducted by a
28 board within the department pursuant to law to deny an application for a license or
to suspend or revoke a license or otherwise take disciplinary action against a person
who holds a license, upon the ground that the applicant or the licensee has been
convicted of a crime substantially related to the qualifications, functions, and duties
of the licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in
order to fix the degree of discipline or to determine if the conviction is substantially
related to the qualifications, functions, and duties of the licensee in question.

1 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
2 'registration.'

3 8. Section 4301 of the Code states, in pertinent part:

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

8

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

12

13 (l) The conviction of a crime substantially related to the qualifications,
14 functions, and duties of a licensee under this chapter. . . . [T]he record of
15 conviction shall be conclusive evidence only of the fact that the conviction
16 occurred. The board may inquire into the circumstances surrounding the
17 commission of the crime, in order to fix the degree of discipline or, in the case of a
18 conviction not involving controlled substances or dangerous drugs, to determine if
19 the conviction is of an offense substantially related to the qualifications, functions,
20 and duties of a licensee under this chapter. A plea or verdict of guilty or a
21 conviction following a plea of nolo contendere is deemed to be a conviction within
22 the meaning of this provision. The board may take action when the time for
23 appeal has elapsed, or the judgment of conviction has been affirmed on appeal or
24 when an order granting probation is made suspending the imposition of sentence,
25 irrespective of a subsequent order under Section 1203.4 of the Penal Code
26 allowing the person to withdraw his or her plea of guilty and to enter a plea of not
27 guilty, or setting aside the verdict of guilty, or dismissing the accusation,
28 information, or indictment.

. . . .

REGULATORY PROVISIONS

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

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

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1 10. California Code of Regulations, title 16, section 1769, states, in pertinent part:

2 "....

3 "(b) When considering the suspension or revocation of a facility or a personal license on the
4 ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating
5 the rehabilitation of such person and his present eligibility for a license will consider the
6 following criteria:

7 (1) Nature and severity of the act(s) or offense(s).

8 (2) Total criminal record.

9 (3) The time that has elapsed since commission of the act(s) or offense(s).

10 (4) Whether the licensee has complied with all terms of parole, probation, restitution
11 or any other sanctions lawfully imposed against the licensee.

12 (5) Evidence, if any, of rehabilitation submitted by the licensee."

13 **COST RECOVERY**

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

18 **FACTS**

19 12. Respondent was employed from 1997 until 2010 in a part time position as a
20 pharmacist at the CVS Pharmacy on North Harbor Boulevard in Fullerton, California. In 2010,
21 the Loss Prevention Department of the pharmacy surreptitiously observed the activities of
22 Respondent while on duty at the pharmacy. These observations included the use of surveillance
23 cameras, personal observation and review of inventory documents of the store.

24 13. It was determined that beginning in approximately March of 2009 until April of 2010,
25 Respondent removed from the store without authorization and without paying for the items, 352
26 One Touch Ultra diabetic test kits. Each kit contained 100 test strips and had a value of
27 approximately \$122.00. Respondent also took 6 bottles of Florastor, a non-prescription pro-biotic
28

1 product, from the store. The total value of the items taken by Respondent was in the amount of
2 \$43,064.

3 14. On April 3, 2010, Respondent was arrested by the Fullerton Police Department for his
4 unlawful acts while employed at the CVS Pharmacy.

5 15. On or about October 7, 2010, a felony criminal complaint was filed in a criminal
6 proceeding entitled *People of the State of California v. Yintat William Kho*, in the County of
7 Orange, North Justice Center, Superior Court, case number 10NF3139. Respondent was charged
8 with one count of violations of Penal Code sections 459-460 (b), second degree commercial
9 burglary and one count of a violation of Penal Code section 487 (a), grand theft.

10 16. On or about July 13, 2011, Respondent was convicted on his plea of guilty of one
11 count of misdemeanor violations of Penal Code sections 459-460 (b), second degree commercial
12 burglary and one count of a misdemeanor violation of Penal Code section 487 (a), grand theft.

13 17. As a result of the conviction, on or about July 13, 2011, Respondent was sentenced to
14 three years informal probation, serve 30 days in the Orange County jail, payment of fees and fines
15 and payment of restitution in the sum of \$43,000.00.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct - Dishonesty)**

18 18. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
19 for the unlawful taking of 352 One Touch Ultra diabetic test kits and 6 bottles of Florastor, as
20 more particularly described in paragraphs 12 through 17, above.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(July 13, 2011 Criminal Convictions for Burglary and Theft)**

23 19. Respondent has subjected his license to disciplinary action under sections 490 and
24 4301, subdivision (l) of the Code, in that Respondent was convicted of crimes that are
25 substantially related to the qualifications, functions, and duties of a pharmacist, as more
26 particularly described in paragraphs 12 through 17, above.

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PRAYER

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

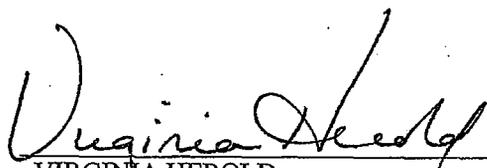
1. Revoking or suspending Original Pharmacist License Number RPH 49713, issued to Yin Tat William Kho;

2. Ordering Yin Tat William Kho 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;

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

DATED: _____

1/24/12



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

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