

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

In the Matter of the Accusation Against:

**HOWARD HONG WAH WONG  
1560 Walnut Leaf Drive  
Walnut, CA 91789**

**Pharmacist License No. RPH 56561**

Respondent.

Case No. 3929

OAH No. L-2011080958

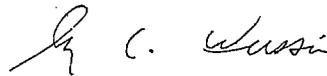
**DECISION AND ORDER**

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 March 28, 2012.

It is so ORDERED on February 27, 2012.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 HEATHER HUA  
Deputy Attorney General  
4 State Bar No. 223418  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2574  
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*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 3929

11 **HOWARD HONG WAH WONG**  
12 **1560 Walnut Leaf Drive**  
13 **Walnut, CA 91789**

OAH No. L-2011080958

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14 **Pharmacist License No. RPH 56561**

15 Respondent.

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
21 She brought this action solely in her official capacity and is represented in this matter by Kamala  
22 D. Harris, Attorney General of the State of California, by Heather Hua, Deputy Attorney General.

23 2. Respondent Howard Hong Wah Wong (Respondent) is represented in this proceeding  
24 by attorney Michael Guisti, whose address is: 10971 Garden Grove Blvd. Suite E, Garden  
25 Grove, CA 92843.

26 3. On or about November 8, 2004, the Board of Pharmacy issued Pharmacist License  
27 No. RPH 56561 to Howard Hong Wah Wong (Respondent). The Pharmacist License was in full  
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1 force and effect at all times relevant to the charges brought in Accusation No. 3929 and will  
2 expire on July 31, 2012, unless renewed.

3 **JURISDICTION**

4 4. Accusation Case No. 3929 was filed before the Board of Pharmacy (Board),  
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
6 and all other statutorily required documents were properly served on Respondent on May 17,  
7 2011. Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation Case No. 3929 is attached as Exhibit A and incorporated herein  
9 by reference.

10 **ADVISEMENT AND WAIVERS**

11 6. Respondent has carefully read, fully discussed with counsel, and understands the  
12 charges and allegations in Accusation Case No. 3929. Respondent has also carefully read, fully  
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
14 Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
19 the attendance of witnesses and the production of documents; the right to reconsideration and  
20 court review of an adverse decision; and all other rights accorded by the California  
21 Administrative Procedure Act and other applicable laws.

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

24 **CULPABILITY**

25 9. Respondent admits the truth of each and every charge and allegation in Accusation  
26 No. 3929.

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



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**1. Suspension**

As part of probation, respondent is suspended from the practice of pharmacy for six (6) months beginning the effective date of this decision.

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

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

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

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

**2. Obey All Laws**

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the board, in writing, within seventy-two (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

- 1 • a conviction of any crime
- 2 • discipline, citation, or other administrative action filed by any state or federal agency
- 3 which involves respondent's pharmacist license or which is related to the practice of
- 4 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
- 5 for any drug, device or controlled substance.

6 Failure to timely report such occurrence shall be considered a violation of probation.

7 **3. Report to the Board**

8 Respondent shall report to the board quarterly, on a schedule as directed by the board or its  
9 designee. The report shall be made either in person or in writing, as directed. Among other  
10 requirements, respondent shall state in each report under penalty of perjury whether there has  
11 been compliance with all the terms and conditions of probation. Failure to submit timely reports  
12 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency  
13 in submission of reports as directed may be added to the total period of probation. Moreover, if  
14 the final probation report is not made as directed, probation shall be automatically extended until  
15 such time as the final report is made and accepted by the board.

16 **4. Interview with the Board**

17 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews  
18 with the board or its designee, at such intervals and locations as are determined by the board or its  
19 designee. Failure to appear for any scheduled interview without prior notification to board staff,  
20 or failure to appear for two (2) or more scheduled interviews with the board or its designee during  
21 the period of probation, shall be considered a violation of probation.

22 **5. Cooperate with Board Staff**

23 Respondent shall cooperate with the board's inspection program and with the board's  
24 monitoring and investigation of respondent's compliance with the terms and conditions of his  
25 probation. Failure to cooperate shall be considered a violation of probation.

26 **6. Continuing Education**

27 Respondent shall provide evidence of efforts to maintain skill and knowledge as a  
28 pharmacist as directed by the board or its designee.

1           7.    **Notice to Employers**

2           During the period of probation, respondent shall notify all present and prospective  
3 employers of the decision in Accusation Case No. 3929 and the terms, conditions and restrictions  
4 imposed on respondent by the decision, as follows:

5           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
6 respondent undertaking any new employment, respondent shall cause his direct supervisor,  
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
8 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
9 individual(s) has/have read the decision in case number 3929, and terms and conditions imposed  
10 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)  
11 submit timely acknowledgment(s) to the board.

12           If respondent works for or is employed by or through a pharmacy employment service,  
13 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity  
14 licensed by the board of the terms and conditions of the decision in case number 3929 in advance  
15 of the respondent commencing work at each licensed entity. A record of this notification must be  
16 provided to the board upon request.

17           Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
18 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
19 service, respondent shall cause his direct supervisor with the pharmacy employment service to  
20 report to the board in writing acknowledging that he has read the decision in case number 3929  
21 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
22 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

23           Failure to timely notify present or prospective employer(s) or to cause that/those  
24 employer(s) to submit timely acknowledgments to the board shall be considered a violation of  
25 probation.

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

3 **8. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**  
4 **Designated Representative-in-Charge, or Serving as a Consultant**

5 During the period of probation, respondent shall not supervise any intern pharmacist, be the  
6 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board  
7 nor serve as a consultant unless otherwise specified in this order. Assumption of any such  
8 unauthorized supervision responsibilities shall be considered a violation of probation.

9 **9. Reimbursement of Board Costs**

10 As a condition precedent to successful completion of probation, respondent shall pay to the  
11 board its costs of investigation and prosecution in the amount of five thousand two dollars  
12 (\$5,002.00). Respondent shall coordinate a payment schedule with the Board.

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

16 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to  
17 reimburse the board its costs of investigation and prosecution.

18 **10. Probation Monitoring Costs**

19 Respondent shall pay any costs associated with probation monitoring as determined by the  
20 board each and every year of probation. Such costs shall be payable to the board on a schedule as  
21 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
22 be considered a violation of probation.

23 **11. Status of License**

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

27 If respondent's license expires or is cancelled by operation of law or otherwise at any time  
28 during the period of probation, including any extensions thereof due to tolling or otherwise, upon

1 renewal or reapplication respondent's license shall be subject to all terms and conditions of this  
2 probation not previously satisfied.

3 **12. License Surrender While on Probation/Suspension**

4 Following the effective date of this decision, should respondent cease practice due to  
5 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
6 respondent may tender his license to the board for surrender. The board or its designee shall have  
7 the discretion whether to grant the request for surrender or take any other action it deems  
8 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent  
9 will no longer be subject to the terms and conditions of probation. This surrender constitutes a  
10 record of discipline and shall become a part of the respondent's license history with the board.

11 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to  
12 the board within ten (10) days of notification by the board that the surrender is accepted.

13 Respondent may not reapply for any license from the board for three (3) years from the effective  
14 date of the surrender. Respondent shall meet all requirements applicable to the license sought as  
15 of the date the application for that license is submitted to the board, including any outstanding  
16 costs.

17 **13. Notification of a Change in Name, Residence Address, Mailing Address or**  
18 **Employment**

19 Respondent shall notify the board in writing within ten (10) days of any change of  
20 employment. Said notification shall include the reasons for leaving, the address of the new  
21 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
22 shall further notify the board in writing within ten (10) days of a change in name, residence  
23 address, mailing address, or phone number.

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

26 **14. Tolling of Probation**

27 Except during periods of suspension, respondent shall, at all times while on probation, be  
28 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.

1 Any month during which this minimum is not met shall toll the period of probation, i.e., the  
2 period of probation shall be extended by one month for each month during which this minimum is  
3 not met. During any such period of tolling of probation, respondent must nonetheless comply  
4 with all terms and conditions of probation.

5 Should respondent, regardless of residency, for any reason (including vacation) cease  
6 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,  
7 respondent must notify the board in writing within ten (10) days of the cessation of practice, and  
8 must further notify the board in writing within ten (10) days of the resumption of practice. Any  
9 failure to provide such notification(s) shall be considered a violation of probation.

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

13 "Cessation of practice" means any calendar month during which respondent is  
14 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and  
15 Professions Code section 4000 et seq. "Resumption of practice" means any calendar  
16 month during which respondent is practicing as a pharmacist for at least forty (40)  
17 hours as a pharmacist as defined by Business and Professions Code section 4000 et  
18 seq.

19 Respondent is required to practice as a pharmacist in a licensed pharmacy setting that  
20 dispenses medication for a minimum of one year prior to the completion of probation. After the  
21 first year of probation, the board or its designee may consider a modification of this requirement.  
22 If respondent fails to comply with this requirement or a subsequent modification thereto, such  
23 failure shall be considered a violation of probation.

#### 24 15. Violation of Probation

25 If a respondent has not complied with any term or condition of probation, the board shall  
26 have continuing jurisdiction over respondent, and probation shall automatically be extended, until  
27 all terms and conditions have been satisfied or the board has taken other action as deemed  
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1 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
2 to impose the penalty that was stayed.

3 If respondent violates probation in any respect, the board, after giving respondent notice  
4 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
5 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a  
6 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If  
7 a petition to revoke probation or an accusation is filed against respondent during probation, the  
8 board shall have continuing jurisdiction and the period of probation shall be automatically  
9 extended until the petition to revoke probation or accusation is heard and decided.

#### 10 16. Completion of Probation

11 Upon written notice by the board or its designee indicating successful completion of  
12 probation, respondent's license will be fully restored.

#### 13 17. Community Services Program

14 Within sixty (60) days of the effective date of this decision, respondent shall submit to the  
15 board or its designee, for prior approval, a community service program in which respondent shall  
16 provide free health-care related services on a regular basis to a community or charitable facility or  
17 agency for at least one hundred (100) hours per year for each year of probation. Within thirty  
18 (30) days of board approval thereof, respondent shall submit documentation to the board  
19 demonstrating commencement of the community service program. A record of this notification  
20 must be provided to the board upon request. Respondent shall report on progress with the  
21 community service program in the quarterly reports. Failure to timely submit, commence, or  
22 comply with the program shall be considered a violation of probation.

#### 23 18. Supervised Practice

24 During the period of probation, respondent shall practice only under the supervision of a  
25 licensed pharmacist not on probation with the board. Upon and after the effective date of this  
26 decision, respondent shall not practice pharmacy and his license shall be automatically suspended  
27 until a supervisor is approved by the board or its designee. The supervision shall be, as required  
28 by the board or its designee, either:

1 Continuous – At least 75% of a work week

2 Substantial - At least 50% of a work week

3 Partial - At least 25% of a work week

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

5 Within thirty (30) days of the effective date of this decision, respondent shall have his  
6 supervisor submit notification to the board in writing stating that the supervisor has read the  
7 decision in case number 3929 and is familiar with the required level of supervision as determined  
8 by the board or its designee. It shall be the respondent's responsibility to ensure that his  
9 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the  
10 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely  
11 acknowledgements to the board shall be considered a violation of probation.

12 If respondent changes employment, it shall be the respondent's responsibility to ensure that  
13 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to  
14 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment  
15 commences, submit notification to the board in writing stating the direct supervisor and  
16 pharmacist-in-charge have read the decision in case number 3929 and is familiar with the level of  
17 supervision as determined by the board. Respondent shall not practice pharmacy and his license  
18 shall be automatically suspended until the board or its designee approves a new supervisor.  
19 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely  
20 acknowledgements to the board shall be considered a violation of probation.

21 Within ten (10) days of leaving employment, respondent shall notify the board in writing.

22 During suspension, respondent shall not enter any pharmacy area or any portion of the  
23 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of  
24 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices  
25 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act  
26 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient  
27 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the  
28 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs

1 and controlled substances. Respondent shall not resume practice until notified by the board.

2 During suspension, respondent shall not engage in any activity that requires the  
3 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the  
4 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
5 designated representative for any entity licensed by the board.

6 Subject to the above restrictions, respondent may continue to own or hold an interest in any  
7 licensed premises in which he holds an interest at the time this decision becomes effective unless  
8 otherwise specified in this order.

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

10 **19. No Ownership of Licensed Premises**

11 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
12 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
13 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell  
14 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)  
15 days following the effective date of this decision and shall immediately thereafter provide written  
16 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide  
17 documentation thereof shall be considered a violation of probation.

18 **20. Tolling of Suspension**

19 During the period of suspension, respondent shall not leave California for any period  
20 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess  
21 of the (10) days during suspension shall be considered a violation of probation. Moreover, any  
22 absence from California during the period of suspension exceeding ten (10) days shall toll the  
23 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days  
24 respondent is absent from California. During any such period of tolling of suspension,  
25 respondent must nonetheless comply with all terms and conditions of probation.

26 Respondent must notify the board in writing within ten (10) days of departure, and must  
27 further notify the board in writing within ten (10) days of return. The failure to provide such  
28 notification(s) shall constitute a violation of probation. Upon such departure and return,

1 respondent shall not resume the practice of pharmacy until notified by the board that the period of  
2 suspension has been satisfactorily completed.

3 21. **Ethics Course**

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

8 Respondent shall submit a certificate of completion to the board or its designee within five  
9 days after completing the course.

10 **ACCEPTANCE**

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

16  
17 DATED: \_\_\_\_\_ Signature page attached  
18 **HOWARD HONG WAH WONG**  
19 Respondent

20  
21 I have read and fully discussed with Respondent Howard Hong Wah Wong the terms and  
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
23 I approve its form and content.

24  
25 DATED: \_\_\_\_\_ MICHAEL GUISTI  
26 Attorney for Respondent

1 respondent shall not resume the practice of pharmacy until notified by the board that the period of  
2 suspension has been satisfactorily completed.

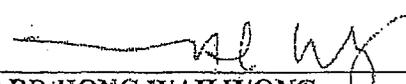
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6 Failure to initiate the course during the first year of probation, and complete it within the second  
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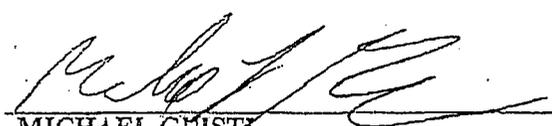
8 Respondent shall submit a certificate of completion to the board or its designee within five  
9 days after completing the course.

10 ACCEPTANCE

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12 discussed it with my attorney, Michael Guisti. I understand the stipulation and the effect it will  
13 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order  
14 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
15 Board of Pharmacy.

16  
17 DATED: 1/16/12   
18 **HOWARD HONG WAH WONG**  
19 Respondent

20  
21 I have read and fully discussed with Respondent Howard Hong Wah Wong the terms and  
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
23 I approve its form and content.

24  
25 DATED: 1/16/12   
26 **MICHAEL GUISTI**  
27 Attorney for Respondent

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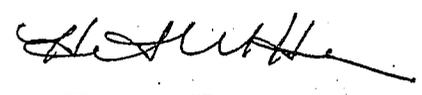
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ENDORSEMENT

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: *January 17, 2012*

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General

  
HEATHER HUA  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 3929**

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 HEATHER HUA  
Deputy Attorney General  
4 State Bar No. 223418  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2574  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

11 In the Matter of the Accusation Against:  
12 **HOWARD HONG WAH WONG**  
13 **1560 Walnut Leaf Drive**  
**Walnut, CA 91789**  
14 **Original Pharmacist License No. RPH 56561**  
15 Respondent.

Case No. 3929  
**A C C U S A T I O N**

16  
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
21 2. On or about November 8, 2004, the Board of Pharmacy issued Original Pharmacist  
22 License Number RPH 56561 to Howard Hong Wah Wong (Respondent). The Original  
23 Pharmacist License was in full force and effect at all times relevant to the charges brought herein  
24 and will expire on July 31, 2012, unless renewed.

25 **JURISDICTION**

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

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

5           5.    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, whose default  
8 has been entered or whose case has been heard by the board and found guilty, by any of the  
9 following methods:

10           "(1) Suspending judgment.

11           "(2) Placing him or her upon probation.

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

13           "(4) Revoking his or her license.

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

16           "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The  
17 board may, in its sole discretion, issue a probationary license to any applicant for a license who is  
18 guilty of unprofessional conduct and who has met all other requirements for licensure. The board  
19 may issue the license subject to any terms or conditions not contrary to public policy, including,  
20 but not limited to, the following:

21           "(1) Medical or psychiatric evaluation.

22           "(2) Continuing medical or psychiatric treatment.

23           "(3) Restriction of type or circumstances of practice.

24           "(4) Continuing participation in a board-approved rehabilitation program.

25           "(5) Abstention from the use of alcohol or drugs.

26           "(6) Random fluid testing for alcohol or drugs.

27           "(7) Compliance with laws and regulations governing the practice of pharmacy.

28

1           "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary  
2 certificate of licensure for any violation of the terms and conditions of probation. Upon  
3 satisfactory completion of probation, the board shall convert the probationary certificate to a  
4 regular certificate, free of conditions.

5           "(e) The proceedings under this article shall be conducted in accordance with Chapter 5  
6 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board  
7 shall have all the powers granted therein. The action shall be final, except that the propriety of  
8 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of  
9 Civil Procedure."

10           6. Section 4022 of the Code states: "Dangerous drug" or "dangerous device" means  
11 any drug or device unsafe for self-use in humans or animals, and includes the following:

12           "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
13 prescription," "Rx only," or words of similar import.

14           "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale  
15 by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import; the blank to be filled  
16 in with the designation of the practitioner licensed to use or order use of the device.

17           "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
18 prescription or furnished pursuant to Section 4006."

19           7. Section 4059 of the Code states:

20           "(a) A person may not furnish any dangerous drug, except upon the prescription of a  
21 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
22 3640.7. A person may not furnish any dangerous device, except upon the prescription of a  
23 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
24 3640.7."

25           8. Section 4060 of the Code states: "No person shall possess any controlled substance,  
26 except that furnished to a person upon the prescription of a physician, dentist, podiatrist,  
27 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
28 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse

1 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or  
2 naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph  
3 (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of  
4 Section 4052. This section shall not apply to the possession of any controlled substance by a  
5 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,  
6 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician  
7 assistant, when in stock in containers correctly labeled with the name and address of the supplier  
8 or producer.

9 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a  
10 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and  
11 devices."

12 9. Section 4301 of the Code states: "The board shall take action against any holder of a  
13 license who is guilty of unprofessional conduct or whose license has been procured by fraud or  
14 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited  
15 to, any of the following:

16 ....

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

20 ....

21 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
22 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
23 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
24 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
25 practice authorized by the license.

26 "(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving away, or  
27 administering or offering to sell, furnish, give away, or administer any controlled substance to an  
28 addict.

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

3           ....

4           "(p) Actions or conduct that would have warranted denial of a license."

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

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

12           11. Health and Safety Code section 11351, states: "Except as otherwise provided in this  
13 division, every person who possesses for sale or purchases for purposes of sale (1) any controlled  
14 substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14),  
15 (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section  
16 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified  
17 in Schedule III, IV, or V which is a narcotic drug, shall be punished by imprisonment in the state  
18 prison for two, three, or four years."

19           12. Health and Safety Code section 11158, states:

20           "(a) Except as provided in Section 11159 or in subdivision (b) of this section, no  
21 controlled substance classified in Schedule II shall be dispensed without a prescription meeting  
22 the requirements of this chapter. Except as provided in Section 11159 or when dispensed directly  
23 to an ultimate user by a practitioner, other than a pharmacist or pharmacy, no controlled substance  
24 classified in Schedule III, IV, or V may be dispensed without a prescription meeting the  
25 requirements of this chapter."

26           13. Health and Safety Code section 11171 provides that no person shall prescribe,  
27 administer, or furnish a controlled substance except under the conditions and in the manner  
28 provided by this division.

1 14. Health and Safety Code section 11173, states:

2 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt  
3 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,  
4 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

5 "(b) No person shall make a false statement in any prescription, order, report, or record,  
6 required by the division."

7 15. A "dangerous drug" is any drug unsafe for self-medication within the meaning of  
8 section 4022 in that it requires a prescription under federal law.

9 16. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
10 revoke a license on the ground that the licensee has been convicted of a crime substantially  
11 related to the qualifications, functions, or duties of the business or profession for which the  
12 license was issued.

13 **COST RECOVERY**

14 17. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
15 administrative law judge to direct a licensee 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 **DANGEROUS DRUGS**

19 18. The dangerous drug fraudulently obtained by Respondent is:

20 a. "Vicodin," is the brand name for a combination drug containing hydrocodone and  
21 acetaminophen, is a schedule III controlled substance as defined in Health and Safety Code  
22 section 11056(e)(4) and is categorized as a dangerous drug according to Business and Professions  
23 Code section 4022.

24 **FIRST CAUSE FOR DISCIPLINE**

25 (Obtained Controlled Substances by Fraud)

26 19. Respondent was employed as a pharmacist for CVS Pharmacy #5775, in Baldwin  
27 Park, California. Respondent is subject to disciplinary action for unprofessional conduct under  
28 Code sections 4300 and 4301, subdivisions (f) and (j), in conjunction with Health and Safety

1 Code section 11173(a) in that Respondent obtained controlled substance(s) and/or dangerous  
2 drug(s) by fraud, deceit, and subterfuge. The circumstances are as follows:

3 a. Specifically, Respondent admitted that from at least March 2009 to January 2010,  
4 Respondent obtained at least 720 tablets of Hydrocodone/APAP 5-500 and 340 tablets of  
5 Hydrocodone/APAP 10-325, both controlled substances, by fraudulent and deceitful acts while  
6 employed by CVS Pharmacy #5775, located at 3151 Baldwin Park Blvd., Baldwin Park, CA  
7 91706.

8 **SECOND CAUSE FOR DISCIPLINE**

9 (Furnishing Drugs without a Prescription)

10 20. Respondent is subject to disciplinary action under Code sections 4300 and 4301,  
11 subdivision (f) and (j), on the grounds of unprofessional conduct, for violating section 4059,  
12 subdivision (a); in conjunction with Health and Safety code sections 11158, subdivision (a), and  
13 11171, in that from at least March 2009 to January 2010, Respondent furnished a controlled  
14 substance, Hydrocodone/APAP 5-500 and Hydrocodone/APAP 10-325, both controlled  
15 substances, without a legitimate prescription to an unknown individual, as more fully set forth in  
16 the preceding paragraph 19, inclusive.

17 **THIRD CAUSE FOR DISCIPLINE**

18 (Possession of a Narcotic Controlled Substance for Sale)

19 21. Respondent is subject to disciplinary action under Code sections 4300, subdivision  
20 (f), on the grounds of unprofessional conduct, for violating section 4059, subdivision (a); in  
21 conjunction with Health and Safety Code section 11351, in that during the period of March 2009  
22 to January 2010, Respondent possessed and sold to an unknown individual for \$10 each drug  
23 without a prescription, at least 720 tablets of Hydrocodone/APAP 5-500 and 340 tablets of  
24 Hydrocodone/APAP 10-325, both Schedule III controlled substances. These drugs were  
25 unlawfully removed and possessed by Respondent without a legitimate prescription, as more fully  
26 set forth in the preceding paragraph 19, inclusive.

27 ///

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Corrupt Acts – Stealing Merchandise)

3 22. Respondent is subject to disciplinary action under Code section 490 and 4301,  
4 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1770, on the  
5 grounds of unprofessional conduct. Respondent engaged in unprofessional conduct in that he  
6 conducted acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. The  
7 circumstances are as follows:

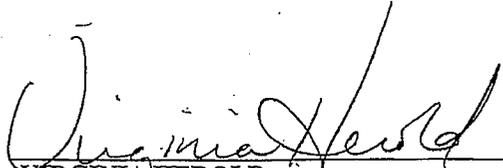
8 a. Between March 2009 to January 2010, Respondent stole gift cards from CVS  
9 Pharmacy in the amount of \$875. Respondent admitted that he activated approximately eight (8)  
10 gift cards without a prescription and used them to buy merchandise while he was employed at  
11 CVS Pharmacy #5775, located at 3151 Baldwin Park Blvd., Baldwin Park, CA 91706.

12 **PRAYER**

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

- 15 1. Revoking or suspending Original Pharmacist License Number RPH 56561, issued to  
16 Respondent Howard Hong Wah Wong.
- 17 2. Ordering Respondent Howard Hong Wah Wong to pay the Board of Pharmacy the  
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
19 Professions Code section 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

21  
22  
23 DATED: 5/9/11

24   
25 VIRGINIA HEROLD  
26 Executive Officer  
27 Board of Pharmacy  
28 Department of Consumer Affairs  
State of California  
Complainant

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