

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

In the Matter of the Accusation Against:

**VITSHANTA, INC.
DBA SIERRA PHARMACY
4108 N. Sierra Way
San Bernardino, CA 92407
Pharmacy Permit No. PHY 49260**

AND

**PRADEEP KUMAR AMIN
4108 N. Sierra Way
San Bernardino, CA 92407
Pharmacist License No. RPH 40574**

Case No. 4826

OAH No. 2015051106

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

**[RESPONDENT
PRADEEP KUMAR ANIM ONLY]**

Respondents.

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 at 5:00 p.m. on April 1, 2016.

It is so ORDERED on March 2, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
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Attorneys for Complainant
7

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

10 In the Matter of the Accusation Against:

Case No. 4826

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**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **AND**

**[RESPONDENT
PRADEEP KUMAR AMIN ONLY]**

16 **PRADEEP KUMAR AMIN**
4108 N. Sierra Way
17 San Bernardino, CA 92407
Pharmacist License No. RPH 40574
18

Respondent.
19

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

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 Susan Melton Wilson, Deputy Attorney
26 General.
27
28

2. Respondent Pradeep Kumar Amin ("Respondent") is represented in this proceeding by attorney Tony J. Park, Pharm.D., J.D., whose address is: 2855 Michelle Drive, Suite 180 Irvine, CA 92606-1027.

3. (a) **Pradeep Kumar Amin** - On or about September 24, 1986, the Board of Pharmacy issued Pharmacist License No. RPH 40574 to Pradeep Kumar Amin (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 4826 and will expire on May 31, 2016, unless renewed.

(b).. **Vitshanta, Inc. dba Sierra Pharmacy** - Respondent Pradeep Kumar Amin has been an owner and pharmacist-in-charge of Sierra Pharmacy (Pharmacy Permit No. 49260, issued to Vitshanta, Inc. dba Sierra Pharmacy) since December 5, 2008, said Pharmacy Permit having been in full force and effect at all times relevant to the charges brought in Accusation No. 4826 and due to expire on December 1, 2015, unless renewed.

JURISDICTION

4. Accusation No. 4826 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 26, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 4826 is attached as **Exhibit A** and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 4826. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel

1 the attendance of witnesses and the production of documents; the right to reconsideration and
2 court review of an adverse decision; and all other rights accorded by the California
3 Administrative Procedure Act and other applicable laws.

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

6 CULPABILITY

7 9. Respondent understands and agrees that the charges and allegations in Accusation
8 No. 4826, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist
9 License.

10 10. For the purpose of resolving the Accusation without the expense and uncertainty of
11 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
12 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
13 those charges.

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

16 CONTINGENCY

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

26 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
27 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
28 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement and Disciplinary 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 Settlement and Disciplinary 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.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 40574 issued to Respondent Pradeep Kumar Amin (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. Suspension

As part of probation, respondent is suspended from the practice of pharmacy for twenty (20) days, 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.

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

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

5 **2. Obey All Laws**

6 Respondent shall obey all state and federal laws and regulations.

7 Respondent shall report any of the following occurrences to the board, in writing, within
8 seventy-two (72) hours of such occurrence:

- 9 • an arrest or issuance of a criminal complaint for violation of any provision of the
10 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
11 substances laws
- 12 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
13 criminal complaint, information or indictment
- 14 • a conviction of any crime
- 15 • discipline, citation, or other administrative action filed by any state or federal agency
16 which involves respondent's Pharmacist License No. RPH 40574 or which is related
17 to the practice of pharmacy or the manufacturing, obtaining, handling, distributing,
18 billing, or charging for any drug, device or controlled substance.

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

20 **3. Report to the Board**

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

1 **4. 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 its
4 designee. Failure to appear for any scheduled interview without prior notification to board staff,
5 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
6 the period of probation, shall be considered a violation of probation.

7 **5. 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 **6. 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 **7. Notice to Employers**

15 During the period of probation, respondent shall notify all present and prospective
16 employers of the decision in case number 4826 and the terms, conditions and restrictions imposed
17 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 case number 4826, and terms and conditions imposed
23 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
24 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 case number 4826 in advance
28

1 of the respondent commencing work at each licensed entity. A record of this notification must be
2 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 employment
5 service, respondent shall cause his direct supervisor with the pharmacy employment service to
6 report to the board in writing acknowledging that he has read the decision in case number 4826
7 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
8 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

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

22 **9. Reimbursement of Board Costs**

23 As a condition precedent to successful completion of probation, Respondent Pradeep
24 Kumar Amin and Respondent owner Vitshanta, Inc., dba Sierra Pharmacy ("Respondents") shall
25 be jointly and severally liable to pay to the board its costs of investigation and prosecution in the
26 amount of \$12,500. Respondents shall be permitted to pay these costs in a payment plan
27 approved by the Board or its designee, with payments to be completed no later than one month
28 prior to the end of the probation term. There shall be no deviation from this schedule absent prior

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

3 The filing of bankruptcy by Respondents, and each of them, shall not relieve them of the
4 responsibility to reimburse the board its costs of investigation and prosecution.

5 **10. Probation Monitoring Costs**

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

10 **11. Status of License**

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

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

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

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

26 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
27 the board within ten (10) days of notification by the board that the surrender is accepted.
28 Respondent may not reapply for any license from the board for three (3) years from the effective

1 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
2 of the date the application for that license is submitted to the board, including any outstanding
3 costs.

4 **13. Notification of a Change in Name, Residence Address, Mailing Address or**
5 **Employment**

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

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

13 **14. Tolling of Probation**

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

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

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

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

7 **15. Violation of Probation**

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

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

21 **16. Completion of Probation**

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

24 **17. Remedial Education**

25 Within ninety (90) days of the effective date of this decision, respondent shall submit to the
26 board or its designee, for prior approval, an appropriate program of remedial education related to
27 corresponding responsibility and prescription drug abuse. The program of remedial education
28 shall consist of at least thirty (30) hours, which shall be completed at respondent's own expense,

1 as follows: ten (10) hours per year for each of the first three (3) years of probation. All remedial
2 education shall be in addition to, and shall not be credited toward, continuing education (CE)
3 courses used for license renewal purposes.

4 Failure to timely submit or complete the approved remedial education shall be considered a
5 violation of probation. The period of probation will be automatically extended until such
6 remedial education is successfully completed and written proof, in a form acceptable to the board,
7 is provided to the board or its designee.

8 Following the completion of each course, the board or its designee may require the
9 respondent, at his own expense, to take an approved examination to test the respondent's
10 knowledge of the course. If the respondent does not achieve a passing score on the examination,
11 this failure shall be considered a violation of probation. Any such examination failure shall
12 require respondent to take another course approved by the board in the same subject area.

13 18. Supervised Practice

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

19 Continuous – At least 75% of a work week

20 Substantial - At least 50% of a work week

21 Partial - At least 25% of a work week

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

23 Within thirty (30) days of the effective date of this decision, respondent shall have his
24 supervisor submit notification to the board in writing stating that the supervisor has read the
25 decision in case number 4826 and is familiar with the required level of supervision as determined
26 by the board or its designee. It shall be the respondent's responsibility to ensure that his
27 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
28 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely

1 acknowledgements to the board shall be considered a violation of probation.

2 If respondent changes employment, it shall be the respondent's responsibility to ensure that
3 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
4 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
5 commences, submit notification to the board in writing stating the direct supervisor and
6 pharmacist-in-charge have read the decision in case number 4826 and is familiar with the level of
7 supervision as determined by the board. Respondent shall not practice pharmacy and his license
8 shall be automatically suspended until the board or its designee approves a new supervisor.
9 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
10 acknowledgements to the board shall be considered a violation of probation.

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

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

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

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

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

28 / / /

1 **19. No New Ownership of Licensed Premises**

2 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
3 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
4 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
5 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
6 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
7 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
8 that interest, but only to the extent of that position or interest as of the effective date of this
9 decision. Violation of this restriction shall be considered a violation of probation.

10 **20. Consultant for Pharmacist-In-Charge**

11 During the period of probation, respondent shall not supervise any intern pharmacist or
12 serve as a consultant to any entity licensed by the board.

13 After twelve monthly reports have been submitted timely, Respondent owner may request
14 that the Board or its designee approve Respondent to be a pharmacist-in-charge. Approval or
15 denial of such request shall be within the discretion of the Board or its designee.

16 However, if during the period of probation respondent serves as a pharmacist-in-charge,
17 respondent shall retain an independent consultant at his own expense who shall be responsible for
18 reviewing pharmacy operations on a monthly basis for compliance by respondent with state and
19 federal laws and regulations governing the practice of pharmacy and for compliance by
20 respondent with the obligations of a pharmacist-in-charge. The consultant shall be a pharmacist
21 licensed by and not on probation with the board and whose name shall be submitted to the board
22 or its designee, for prior approval, within thirty (30) days of the effective date of this decision.
23 Respondent shall not be a pharmacist-in-charge at more than one pharmacy or at any pharmacy of
24 which he is not the sole owner. Should respondent serve as a pharmacist-in-charge, so long as
25 Respondent is fully compliant with all terms of probation, the Board or its designee may permit
26 the review of pharmacy operations by a consultant on a quarterly basis.

27 Failure to timely retain, seek approval of, or ensure timely reporting by the consultant shall
28 be considered a violation of probation.

1 **21. Tolling of Suspension**

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

9 Respondent must notify the board in writing within ten (10) days of departure, and must
10 further notify the board in writing within ten (10) days of return. The failure to provide such
11 notification(s) shall constitute a violation of probation. Upon such departure and return,
12 respondent shall not resume the practice of pharmacy until notified by the board that the period of
13 suspension has been satisfactorily completed.

14 **22. Ethics Course**

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

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

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Tony J. Park, Pharm.D., J.D.. I understand the stipulation and the
4 effect it will have on my Pharmacist License No. RPH 40574. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the Board of Pharmacy.

7
8 DATED: 11/4/2015


9 PRADEEP KUMAR AMIN
Respondent

10 I have read and fully discussed with Respondent Pradeep Kumar Amin the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: _____

14 TONY J. PARK, PHARM.D., J.D.
Attorney for Respondent

15 ENDORSEMENT

16
17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Board of Pharmacy.

19 Dated: _____

Respectfully submitted,

20 KAMALA D. HARRIS
Attorney General of California
21 THOMAS L. RINALDI
Supervising Deputy Attorney General

22
23 SUSAN MELTON WILSON
24 Deputy Attorney General
Attorneys for Complainant

25
26 LA2013509861
27 51950221.doc(revised)

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3 discussed it with my attorney, Tony J. Park, Pharm.D., J.D.. I understand the stipulation and the
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8 DATED: _____

9 PRADEEP KUMAR AMIN
Respondent

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11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 11/04/2015

14 Tony J. Park
15 TONY J. PARK, PHARM.D., J.D.
Attorney for Respondent

16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Board of Pharmacy.

19 Dated: 11-5-15

Respectfully submitted,

20 KAMALA D. HARRIS
Attorney General of California
21 THOMAS L. RINALDI
Supervising Deputy Attorney General

22 Susan Melton Wilson
23 SUSAN MELTON WILSON
24 Deputy Attorney General
Attorneys for Complainant

25
26 LA2013509861
27 51950221.doc(revised)
28

Exhibit A

Accusation No. 4826

1 KAMALA D. HARRIS
2 Attorney General of California
3 LINDA K. SCHNEIDER
4 Supervising Deputy Attorney General
5 DESIREE I. KELLOGG
6 Deputy Attorney General
7 State Bar No. 126461
8 110 West "A" Street, Suite 1100
9 San Diego, CA 92101
10 P.O. Box 85266
11 San Diego, CA 92186-5266
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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4826

12 VITSHANTA, INC.
13 DBA SIERRA PHARMACY
14 4108 N. Sierra Way
15 San Bernardino, CA 92407

ACCUSATION

16 Pharmacy Permit No. PHY 49260

17 PRADEEP KUMAR AMIN
18 4108 N. Sierra Way
19 San Bernardino, CA 92407

20 Pharmacist License No. RPH 40574

Respondent.

21
22 Complainant alleges:

23 PARTIES

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

26 2. On or about December 5, 2008, the Board of Pharmacy issued Pharmacy Permit
27 Number PHY 49260 to Vitshanta, Inc., doing business as Sierra Pharmacy (Respondent Sierra
28

1 Pharmacy). The Pharmacy Permit was in full force and effect at all times relevant to the charges
2 brought herein and will expire on December 1, 2014, unless renewed.

3 3. On or about September 24, 1986, the Board of Pharmacy issued Pharmacist License
4 Number RPH 40574 to Pradeep Kumar Amin (Respondent Pradeep Amin). The Pharmacist
5 License was in full force and effect at all times relevant to the charges brought herein and will
6 expire on December 1, 2016, unless renewed.

7 JURISDICTION

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

11 5. Section 4011 of the Code provides that the Board shall administer and enforce both
12 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
13 Act [Health & Safety Code, § 11000 et seq.].

14 6. Section 4300 (a) of the Code provides that every license issued by the Board may be
15 suspended or revoked.

16 7. Section 4300.1 of the Code states:

17 The expiration, cancellation, forfeiture, or suspension of a board-issued license
18 by operation of law or by order or decision of the board or a court of law, the
19 placement of a license on a retired status, or the voluntary surrender of a license by a
20 licensee shall not deprive the board of jurisdiction to commence or proceed with any
investigation of, or action or disciplinary proceeding against, the licensee or to render
a decision suspending or revoking the license.

21 STATUTORY AND REGULATORY PROVISIONS

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

23 The board shall take action against any holder of a license who is guilty of
24 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:

25 ...

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

28 ...

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
2 abetting the violation of or conspiring to violate any provision or term of this chapter
3 or of the applicable federal and state laws and regulations governing pharmacy,
4 including regulations established by the board or any other state or federal regulatory
5 agency.

6 ...
7 9. Section 4113 (c) of the Code states:

8 The pharmacist-in-charge shall be responsible for a pharmacy's compliance
9 with all state and federal laws and regulations pertaining to the practice of pharmacy.

10 10. Section 4306.5 of the Code states, in pertinent part:

11 Unprofessional conduct for a pharmacist may include any of the following:

12 Acts or omissions that involve, in whole or in part, the inappropriate exercise of
13 his or her education, training, or experience as a pharmacist, whether or not the act
14 or omission arises in the course of the practice of pharmacy or the ownership,
15 management, administration, or operation of a pharmacy or other entity licensed by
16 the board.

17 Acts or omissions that involve, in whole or in part, the failure to consult
18 appropriate patient, prescription, and other records pertaining to the performance of
19 any pharmacy function.

20 ...
21 11. Code section 4115 (f)(1) states:

22 A pharmacy with only one pharmacist shall have no more than one pharmacy
23 technician performing the tasks specified in subdivision (a). The ratio of pharmacy
24 technicians performing the tasks specified in subdivision (a) to any additional
25 pharmacist shall not exceed 2:1, except that this ratio shall not apply to personnel
26 performing clerical functions pursuant to Section 4116 or 4117. This ratio is
27 applicable all practice settings, except for an inpatient of a licensed health facility, a
28 patient of a licensed home health agency, as specified in paragraph (2), an inmate of a
correctional facility of the Department of Corrections and Rehabilitation, and for a
person receiving treatment in a facility operated by the State Department of State
Hospitals, the State Department of Developmental Services, or the Department of
Veterans Affairs.

12. Health and Safety Code section 11153 (a) states:

A prescription for a controlled substance shall only be issued for a legitimate
medical purpose by an individual practitioner acting in the usual course of his or her
professional practice. The responsibility for the proper prescribing and dispensing of
controlled substances is upon the prescribing practitioner, but a corresponding
responsibility rests with the pharmacist who fills the prescription. Except as
authorized by this division, the following are not legal prescriptions: (1) an order
purporting to be a prescription which is issued not in the usual course of
professional treatment or in legitimate and authorized research; or (2) an order for an
addict or habitual user of controlled substances, which is issued not in the course of
professional treatment or as part of an authorized narcotic treatment program, for the
purpose of providing the user with controlled substances, sufficient to keep him or

her comfortable by maintaining customary use.

13. Health and Safety Code section 11165 (d) states, in pertinent part:

To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, and the Osteopathic Medical Board of California Contingent Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and Internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedule in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy or clinic shall provide the following information to the Department of Justice on a weekly basis and in a format specified by the Department of Justice:

14. Section 1761 of title 16, California Code of Regulations states:

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

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

COST RECOVERY

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

DRUGS

16. Hydrocodone/APAP, is the generic name for Vicodin and Norco, a Schedule III controlled substance pursuant to Health and Safety Code section 11056 (e)(5) and a dangerous drug pursuant to Business and Professions Code section 4022.

17. Phenergan with Codeine is the brand name for promethazine with codeine, a Schedule V controlled substance pursuant to Health and Safety Code section 11058 (c)(1) and is a dangerous drug pursuant to Business and Professions Code section 4022.

18. Xanax is the brand name for alprazolam, a Schedule IV controlled substance pursuant to Health and Safety Code section 11057 (d)(1) and a dangerous drug pursuant to Business and Professions Code section 4022.

FACTUAL ALLEGATIONS

19. From December 5, 2008 and at all times mentioned herein, Respondent Pradeep Amin was the Pharmacist-in-Charge of Respondent Sierra Pharmacy.

20. From January 4, 2010 to September 26, 2011, Respondents filled 1,220 prescriptions for controlled substances which were written by Dr. A.S. None of the five pharmacies closest in geographical proximity to Respondent Sierra Pharmacy dispensed a single prescription written by Dr. A.S. The amounts of hydrocodone/apap dispensed by Respondents during the same time frame was higher than neighboring pharmacies.

21. On July 22, 2005, an accusation was filed against Dr. A.S., a physician with a primary practice area of family and general practice, charging Dr. A.S. with gross negligence, repeated negligent acts, incompetence, dishonesty and prescribing without medical indication or performing a good faith physical examination, among other violations of the Medical Practice Act. On April 30, 2007, a stipulated settlement and disciplinary order was adopted by the Medical Board, placing Dr. A.S. on probation for four years.

22. On June 18, 2009, another accusation and a petition to revoke probation was filed against Dr. A.S. charging him with dishonesty and failing to comply with the term and condition of his probation requiring him to maintain a drug log for all controlled substances ordered, prescribed, dispensed, administered or possessed by him. On March 26, 2010, another stipulated

1 settlement and disciplinary order was adopted by the Medical Board, extending his probation for
2 four additional years on the same terms and conditions in addition to prohibiting him from
3 writing prescriptions for Schedule II controlled substances.

4 23. On September 20, 2012, an interim suspension order was issued against Dr. A.S. On
5 November 7, 2012, a third accusation and second petition to revoke probation was filed against
6 Dr. A.S. charging him with gross negligence, repeated negligent acts, incompetence, prescribing
7 to addicts, prescribing without performing physical examination or medical indication or both,
8 failure to maintain adequate and accurate medical records, excessive prescribing and violation of
9 drug statutes, as well as writing prescriptions for Schedule II controlled substances in violation of
10 the terms and conditions of his probation.

11 24. To obtain controlled substances from Respondents, Dr. A.S.'s patients traveled an
12 average of 46 miles from their residences to Respondent Sierra Pharmacy and traveled an average
13 of 56 miles from Dr. A.S.'s offices to Respondent Sierra Pharmacy.

14 25. Groups of patients were furnished controlled substances by Respondents at the same
15 time.

16 26. Respondents dispensed and filled prescriptions for controlled substances which were
17 written in an identical fashion for multiple patients. For example, many prescriptions were
18 written by Dr. A.S., each for different patients, for hydrocodone/apap 10/325, alprazolam 2mg
19 and promethazine with codeine 480ml. Almost ninety-five percent of the prescriptions written by
20 Dr. A.S. and filled by Respondents were for controlled substances.

21 27. Not all of prescriptions written by Dr. A.S. and filled by Respondents identified
22 diagnoses for his patients. For the prescriptions written for alprazolam where a diagnosis was
23 documented, the diagnosis was identical, "anxiety." For the prescriptions written for
24 promethazine with codeine where a diagnosis was documented, the diagnosis was identical,
25 "bronchitis," without a concurrent prescription for an antibiotic or other respiratory medication.
26 For the majority of the prescriptions written for hydrocodone/apap with a diagnosis documented,
27 the diagnosis was identical, "back pain" with no referral to a pain specialist and concurrent
28

1 prescriptions written for other medications routinely prescribed for chronic pain such as
2 amitriptyline and gabapentin.

3 28. Respondents did not verify or otherwise research whether the prescriptions described
4 in paragraph 20 were written for a legitimate medical purpose before filling them, including
5 verifying whether there were any disciplinary proceedings pending against Dr. A.S.'s license to
6 practice medicine.

7 29. From January 2010 through November 2012, Respondents did not provide any
8 information for each prescription dispensed for a Schedule II, Schedule III or Schedule IV
9 controlled substance to the Department of Justice on a weekly basis for inclusion in the
10 Controlled Substance Utilization Review and Evaluation System ("CURES").

11 30. On December 20, 2012, two pharmacy technicians were on duty and performing
12 packaging, manipulative, repetitive, or other nondiscretionary tasks while there was only one
13 pharmacist on duty at Respondent Sierra Pharmacy.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Failing to Comply with Corresponding Responsibility**
16 **for Legitimate Controlled Substance Prescriptions)**

17 31. Respondents are subject to disciplinary action under Code section 4301(j), for
18 violating Health and Safety Code section 11153(a), in that they failed to comply with their
19 corresponding responsibility to ensure that controlled substances were dispensed for a legitimate
20 medical purpose when Respondents furnished prescriptions for controlled substances even though
21 "red flags" were present to indicate those prescriptions were not issued for a legitimate medical
22 purpose, as set forth in paragraphs 19 through 30 above, which are incorporated herein by
23 reference.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions,**
26 **Irregularities, Uncertainties, Ambiguities or Alterations)**

27 32. Respondents are subject to disciplinary action under Code section 4301(o), for
28 violating title 16, California Code of Regulations, sections 1761(a) and (b), in that they dispensed

1 prescriptions for controlled substances, which contained significant errors, omissions,
2 irregularities, uncertainties, ambiguities or alterations, as set forth in paragraphs 19 through 30
3 above, which are incorporated herein by reference.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Failure to Exercise or Implement Best Professional Judgment or Corresponding**
6 **Responsibility when Dispensing Controlled Substances**
7 **against Respondent Pradeep Amin)**

8 33. Respondent Pradeep Amin is subject to disciplinary action under Code section
9 4301(o), for violating Business and Professions Code section 4306.5(a) and (b), in that he failed
10 to exercise or implement his best professional judgment or corresponding responsibility when
11 dispensing controlled substances, as set forth in paragraphs 19 through 30 above, which are
12 incorporated herein by reference.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Failure to Report Dispensing of Controlled Prescriptions to CURES against Respondents)**

15 34. Respondents are subject to disciplinary action under Code section 4301(j), for
16 violating Health and Safety Code section 11165(d), in that they failed to provide any information
17 for each prescription dispensed of a Schedule II, Schedule III or Schedule IV controlled substance
18 to the Department of Justice on a weekly basis for inclusion in CURES, as set forth in paragraphs
19 19 through 30 above, which are incorporated herein by reference.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 **(Failure to Adhere to Pharmacy Technician Ratios)**

22 35. Respondents are subject to disciplinary action under Code section 4301(o), for
23 violating Business and Professions Code section 4115(f)(1), in that on December 20, 2012, two
24 pharmacy technicians were on duty and performing their tasks with only one pharmacist present
25 and on duty, as set forth in paragraphs 19 through 30 above, which are incorporated herein by
26 reference.

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