

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

In the Matter of the Accusation Against:

Case No. 4961

LONG NGUYEN
7545 Alonda Way
San Diego, CA 92126

Pharmacy Technician Registration No.
TCH 111139

Respondent.

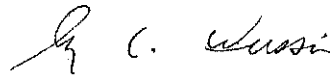
DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 9, 2014.

It is so ORDERED on April 4, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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Attorney General of California
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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:
13 **LONG NGUYEN**
7545 Alonda Way
14 San Diego, CA 92126
15 **Pharmacy Technician Registration**
No. TCH 111139
16
17 Respondent.

Case No. 4961
OAH No. 2014010653
**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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

21 **PARTIES**

- 22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
23 She brought this action solely in her official capacity and is represented in this matter by Kamala
24 D. Harris, Attorney General of the State of California, by Amanda Dodds, Senior Legal Analyst.
25 2. Long Nguyen (Respondent) is representing himself in this proceeding and has chosen
26 not to exercise his right to be represented by counsel.
27 3. On or about April 4, 2011, the Board of Pharmacy issued Pharmacy Technician
28 Registration No. TCH 111139 to Long Nguyen (Respondent). The Pharmacy Technician

1 Registration was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 4961 and will expire on February 28, 2015, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 4961 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on December 24, 2013.
7 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation
8 No. 4961 is attached as Exhibit A and incorporated by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 4961. Respondent also has carefully read, and understands the effects of this
12 Stipulated Surrender of License and Order.

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

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

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 4961, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician
25 Registration No. TCH 111139 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation he enables the Board to issue
27 an order accepting the surrender of his Pharmacy Technician Registration without further process.

28 ///

1 **CONTINGENCY**

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

11 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
12 copies of this Stipulated Surrender of License and Order, including Portable Document Format
13 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

22 **ORDER**

23 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 111139,
24 issued to Respondent Long Nguyen, is surrendered and accepted by the Board of Pharmacy.

25 1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance
26 of the surrendered license by the Board shall constitute the imposition of discipline against
27 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
28 Respondent's license history with the Board of Pharmacy.

1 2. Respondent shall lose all rights and privileges as a pharmacy technician in California
2 as of the effective date of the Board's Decision and Order.

3 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
4 issued, his wall certificate on or before the effective date of the Decision and Order.

5 4. If Respondent ever files an application for licensure or a petition for reinstatement in
6 the State of California, the board shall treat it as a new application for licensure. Respondent may
7 not apply for any license, permit, or registration from the Board for three (3) years from the
8 effective date of this decision. If Respondent applies for any license from the Board on or after
9 the effective date of this decision, all allegations set forth in Accusation No. 4961 shall be
10 deemed to be true, correct and admitted by Respondent when the Board determines whether to
11 grant or deny the application. Respondent shall satisfy all requirements applicable to that license
12 as of the date the application is submitted to the Board, including, but not limited to certification
13 by a nationally recognized body prior to the issuance of a new license. Respondent is required to
14 report this surrender as disciplinary action.

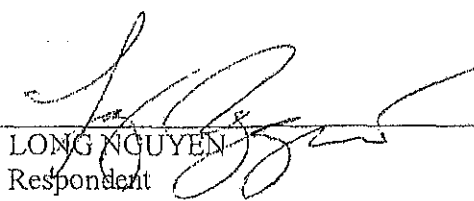
15 5. Respondent shall pay the agency its costs of investigation and enforcement in the
16 amount of \$865.00 prior to issuance of a new or reinstated license.

17 **ACCEPTANCE**

18 I have carefully read the Stipulated Surrender of License and Order. I understand the
19 stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this
20 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
21 be bound by the Decision and Order of the Board of Pharmacy.
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23
24 DATED:

02/11/2014

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LONG NGUYEN
Respondent

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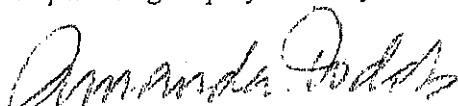
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 2/18/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General


AMANDA DODDS
Senior Legal Analyst
Attorneys for Complainant

SD2013706112

Exhibit A
Accusation No. 4961

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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
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11
12 In the Matter of the Accusation Against:

Case No. 4961

13 **LONG NGUYEN**
7545 Alonda Way
14 San Diego, CA 92126

A C C U S A T I O N

15 **Pharmacy Technician Registration**
No. TCH 111139

16 Respondent.
17

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about April 4, 2011, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 111139 to Long Nguyen (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on February 28, 2015, unless renewed.

27 ///

28 ///

1 **JURISDICTION**

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

5 4. Section 4300, subdivision (a) of the Code states "Every license issued may be
6 suspended or revoked."

7 5. Section 4300.1 of the Code states:

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

12 **STATUTORY PROVISIONS**

13 6. Section 482 of the Code states:

14 Each board under the provisions of this code shall develop criteria to evaluate the
15 rehabilitation of a person when:

- 16 (a) Considering the denial of a license by the board under Section 480; or
17 (b) Considering suspension or revocation of a license under Section 490.

18 Each board shall take into account all competent evidence of rehabilitation
19 furnished by the applicant or licensee.

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

24 8. Section 493 of the Code states:

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

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discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

9. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

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

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

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

10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.

11. Section 4301 of the Code states:

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

....

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

....

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has

1 elapsed, or the judgment of conviction has been affirmed on appeal or when an order
2 granting probation is made suspending the imposition of sentence, irrespective of a
3 subsequent order under Section 1203.4 of the Penal Code allowing the person to
4 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the
5 verdict of guilty, or dismissing the accusation, information, or indictment.

6

7 **REGULATORY PROVISIONS**

8 12. California Code of Regulations, title 16, section 1769, states:

9

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

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

15 (2) Total criminal record.

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

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

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

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

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

28 **COSTS**

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
administrative law judge to direct a licentiate found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case, with failure of the licentiate to comply subjecting the license to not
being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
may be included in a stipulated settlement.

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1 **DRUG**

2 15. Ecstasy, the street name for 3,4-methylenedioxyamphetamine (MDMA), is a
3 Schedule I controlled substance pursuant to California Health and Safety Code section 11054,
4 subdivision (d)(4), and is classified as a dangerous drug pursuant to Business and Professions
5 Code section 4022.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(September 9, 2013 Criminal Conviction for**

8 **Possession of a Controlled Substance on January 25, 2013)**

9 16. Respondent has subjected his registration to discipline under sections 490 and 4301,
10 subdivision (l) of the Code in that he was convicted of a crime that is substantially related to the
11 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

12 a. On or about September 9, 2013, in a criminal proceeding entitled *People of the*
13 *State of California v. Long Nguyen*, in Orange County Superior Court, case number 13HF0934,
14 Respondent was convicted on his plea of guilty to violating Health and Safety Code section
15 11379, subdivision (a), possession of a controlled substance, a felony, a count which amended by
16 interlineation the original complaint, and dismissed the original charge of violating Health and
17 Safety Code section 11378, subdivision (a), possession for sale of Ecstasy, a felony, pursuant to a
18 plea agreement.

19 b. As a result of the conviction, on or about September 9, 2013, Respondent was
20 sentenced to 365 days in the Orange County Jail, with credit for four days, and granted three
21 years formal probation. Respondent was ordered to submit to a Fourth Amendment waiver,
22 abstain from using or possessing any unauthorized controlled substances or drugs, submit to drug
23 testing, pay fees, fines, and restitution, and comply with the terms of felony probation.

24 c. The facts that led to the conviction are that on or about January 23, 2013, a
25 Special Agent with the Department of Homeland Security Immigration and Customs Enforcement
26 (ICE) was contacted by the Customs and Border Protection (CBP) regarding packages that had
27 been intercepted enroute from a Canadian "gift store" to an address in Irvine, California. The
28 packages contained a substance that tested positive for MDMA (Ecstasy). After obtaining a

1 search warrant, agents from the ICE, the U.S. Postal Service, and the Irvine Police Department
2 converged on the Irvine residence to conduct a controlled delivery of a package containing 500
3 grams of MDMA. Shortly after making the delivery of the package, the agents proceeded to
4 execute the search warrant. Four males were inside the residence, including Respondent. The
5 investigation revealed that Respondent was aware that his brother had ordered the MDMA from
6 Silk Road¹, that Respondent was tracking the delivery of the package on his cell phone, and that
7 he and his brother intended to sell the MDMA.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Violation of California Statutes Regulating Controlled Substances)**

10 17. Respondent has subjected his license to discipline under section 4301, subdivision (j)
11 of the Code for unprofessional conduct in that on or about January 25, 2013, Respondent violated
12 Health and Safety Code section 11379, subdivision (a), and Business and Professions Code
13 section 4060, as described in paragraph 16, above.

14 **PRAYER**

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

17 1. Revoking or suspending Pharmacy Technician Registration Number TCH 111139,
18 issued to Long Nguyen;

19 2. Ordering Long Nguyen to pay the Board of Pharmacy the reasonable costs of the
20 investigation and enforcement of this case, pursuant to Business and Professions Code section
21 125.3;

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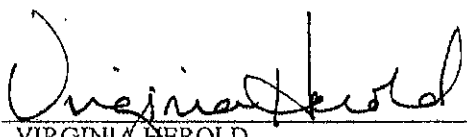
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25 _____
26 ¹ Silk Road was an online black market for the sale and purchase of illegal drugs. It was
27 operated as a Tor hidden service, such that online users could browse it anonymously and
28 securely without potential traffic monitoring. The website launched in February 2011, and was
shut down by the FBI on October 2, 2013. Silk Road (marketplace) (n.d.). In *Wikipedia*.
Retrieved November 13, 2013, from [http://en.wikipedia.org/wiki/Silk_Road_\(marketplace\)](http://en.wikipedia.org/wiki/Silk_Road_(marketplace))

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

DATED: 12/12/13



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

SD2013706112