

1 BILL LOCKYER, Attorney General
of the State of California
2 KATHLEEN B. Y. LAM, State Bar No. 95379
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2091
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 2132

12 TOAN PHUOC HUYNH
13403 Little Dawn Lane
13 Poway, California 92064

OAH No. L-2002080130

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 Original Licentiate No. RPH 45099

15 CENTRAL PHARMACY
4419 Euclid Avenue
16 Suite 103
San Diego, California 92115
17 TOAN PHUOC HUYNH, PIC

18 Original Pharmacy Permit No. PHY 42029

19 Respondents.
20
21

22 In the interest of a prompt and speedy resolution of this matter, consistent with the
23 public interest and the responsibility of the Board of Pharmacy of the Department of Consumer
24 Affairs the parties hereby agree to the following Stipulated Surrender of License and Order which
25 will be submitted to the Board for approval and adoption as the final disposition of Accusation
26 No. 2132.

27 ///

28 ///

1 PARTIES

2 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
3 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
4 by Bill Lockyer, Attorney General of the State of California, by Kathleen B.Y. Lam, Deputy
5 Attorney General.

6 2. Toan Phuoc Huynh and Central Pharmacy (Respondents) are represented
7 in this proceeding by attorney Donald B. Brown, Esq., whose address is 3848 Carson Street, Ste.
8 206, Torrance, CA 90503.

9 3. On or about March 6, 1992, the Board of Pharmacy issued Original
10 Licentiate No. RPH 45099 to Toan Phuoc Huynh. The license was in full force and effect at all
11 times relevant to the charges brought in Accusation No. 2132 and will expire on June 30, 2005,
12 unless renewed.

13 4. On or about January 24, 1997, the Board of Pharmacy issued Pharmacy
14 Permit No. PHY 42029 to Toan Phuoc Huynh to do business as Central Pharmacy. From
15 January 24, 1997, to February 7, 2000, respondent Toan Phuoc Huynh was the Pharmacist-in-
16 Charge of Central Pharmacy. Toan Phuoc Huynh was also the owner of Central Pharmacy. The
17 license was cancelled on February 7, 2001, due to a discontinuance of business.

18
19 JURISDICTION

20 5. Accusation No. 2132 was filed before the Board of Pharmacy (Board),
21 Department of Consumer Affairs, and is currently pending against Respondents. The Accusation
22 and all other statutorily required documents were properly served on Respondents on June 7,
23 2002. Respondents timely filed their Notices of Defense contesting the Accusation. A copy of
24 Accusation No. 2132 is attached as exhibit A and incorporated herein by reference.

25 ADVISEMENT AND WAIVERS

26 6. Respondents have carefully read, fully discussed with counsel, and
27 understand the charges and allegations in Accusation No. 2132. Respondents also have carefully
28 read, fully discussed with counsel, and understand the effects of this Stipulated Surrender of

1 between the parties, and the Board shall not be disqualified from further action by having
2 considered this matter.

3 12. The parties understand and agree that facsimile copies of this Stipulated
4 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
5 and effect as the originals.

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

9 **ORDER**

10 IT IS HEREBY ORDERED that Original Licentiate No. RPH 45099 issued to
11 Respondent Toan Phuoc Huynh, is surrendered and accepted by the Board of Pharmacy.

12 IT IS FURTHER ORDERED that Original Pharmacy Permit No. PHY 42029
13 issued to Respondent CENTRAL PHARMACY, TOAN PHUOC HUYNH, PIC, is surrendered
14 and accepted by the Board of Pharmacy.

15 The surrender of Respondents' pharmacy licenses and the acceptance of the
16 surrendered licenses by the Board shall constitute the imposition of discipline against
17 Respondents. This stipulation constitutes a record of the discipline and shall become a part of
18 Respondents' license history with the Board.

19 Respondents shall lose all rights and privileges as a pharmacist and pharmacy in
20 California as of the effective date of the Board's Decision and Order.

21 Respondents shall cause to be delivered to the Board their wall and pocket license
22 certificates on or before the effective date of the Decision and Order.

23 Respondents fully understand and agree that if they ever file an application for
24 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
25 petition for reinstatement. Respondents must comply with all the laws, regulations and
26 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
27 of the charges and allegations contained in Accusation No. 2132 shall be deemed to be true,
28 correct, and admitted by Respondents when the Board determines whether to grant or deny the

1 petition.

2 Respondents shall pay the Board its costs of investigation and enforcement in the
3 amount of \$15,800.75 prior to issuance of a new or reinstated license.

4
5 **ACCEPTANCE**

6 On behalf of Central Pharmacy, as owner and pharmacist-in-charge, and myself, I
7 have carefully read the above Stipulated Surrender of License and Order and have fully discussed
8 it with our attorney, Donald B. Brown. I understand the stipulation and the effect it will have on
9 our pharmacy licenses. I enter into this Stipulated Surrender of License and Order voluntarily,
10 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of
11 Pharmacy.

12 DATED: 10/27/03

13
14 
15 **TOAN PHUOC HUYNH**
16 **CENTRAL PHARMACY**
17 **Respondent**

18 I have read and fully discussed with Respondent Toan Phuoc Huynh, individually
19 and on behalf of Central Pharmacy, the terms and conditions and other matters contained in this
20 Stipulated Surrender of License and Order. I approve its form and content.

21 DATED: OCT 24 2003

22 
23 **DONALD B. BROWN**
24 **Attorney for Respondent**

25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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: 10/3/03

BILL LOCKYER, Attorney General
of the State of California



KATHLEEN B.Y. LAM
Deputy Attorney General

Attorneys for Complainant

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

In the Matter of the Accusation Against:

TOAN PHUOC HUYNH
Original Licentiate No. RPH 45099

CENTRAL PHARMACY
TOAN P. HUYNH, Pharmacist-In-Charge

Original Pharmacy Permit No. PHY 42029

Respondents.

Case No. 2132

OAH No. L-2002080130

DECISION AND ORDER

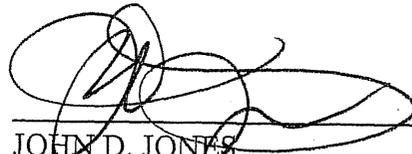
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 26, 2004.

It is so ORDERED February 25, 2004.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Exhibit A
Accusation No. 2132

1 BILL LOCKYER, Attorney General
of the State of California
2 KATHLEEN B.Y. LAM, State Bar No. 95379
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2091
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 2132

14 TOAN PHUOC HUYNH
13403 Little Dawn Lane
15 Poway, California 92064

A C C U S A T I O N

16 Original Licenciate No. RPH 45099

17 CENTRAL PHARMACY
4419 Euclid Avenue
18 Suite 103
San Diego, California 92115
TOAN PHUOC HUYNH, PIC

19 Original Pharmacy Permit No. PHY 42029

20 Respondents.
21

22 Complainant alleges:

23 PARTIES

24 1. Patricia F. Harris ("Complainant") brings this Accusation solely in her
25 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
26 Affairs.

27 2. On or about March 6, 1992, the Board of Pharmacy issued Original
28 Licenciate No. RPH 45099 to Toan Phuoc Huynh. The license was in full force and effect at all

1 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty
2 or a conviction following a plea of nolo contendere is deemed to be a conviction within the
3 meaning of this provision. The board may take action when the time for appeal has elapsed, or
4 the judgment of conviction has been affirmed on appeal or when an order granting probation is
5 made suspending the imposition of sentence, irrespective of a subsequent order under Section
6 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a
7 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,
8 or indictment.

9 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
10 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
11 applicable federal and state laws and regulations governing pharmacy, including regulations
12 established by the board.

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

14 6. Section 4300 of the Code states in relevant part:

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

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

19 "(1) Suspending judgment.

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

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

22 "(4) Revoking his or her license.

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

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

1 Code of Civil Procedure."

2 7. Section 490 of the Code states, in pertinent part, that a Board may suspend
3 or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is
4 substantially related to the qualifications, functions, or duties of the business or profession for
5 which the license was issued. A conviction within the meaning of this section means a plea or
6 verdict of guilty or conviction following a plea of nolo contendere. Any action which a board is
7 permitted to take following the establishment of a conviction may be taken when the time for
8 appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order
9 granting probation is made suspending the imposition of sentence.

10 8. Section 4307 states, in pertinent part, that any person whose license has
11 been revoked or is under suspension, or who has been a manager, administrator, owner, member,
12 officer, director, associate, or partner of any partnership, corporation, firm, or association whose
13 application for a license has been denied or revoked, is under suspension or has been placed on
14 probation, and while acting as the manager, administrator, owner, member, officer, director,
15 associate, or partner had knowledge of or knowingly participated in any conduct for which the
16 license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving
17 as a manager, administrator, owner, member, officer, director, associate or partner of a licensee.

18 9. California Code of Regulations, title 16, section 1770, states that for the
19 purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division
20 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
21 considered substantially related to the qualifications, functions or duties of a licensee or
22 registrant if to a substantial degree it evidences present or potential unfitness of a licensee or
23 registrant to perform the functions authorized by his license or registration in a manner consistent
24 with the public health, safety, or welfare.

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

1 FIFTH CAUSE FOR DISCIPLINE

2 (Violating Pharmacy Laws and Regulations)

3 18. Respondents Toan P. Huynh and Central Pharmacy are subject to
4 disciplinary action under section 4301(o) in that Respondent Huynh, while owner and
5 Pharmacist-in-Charge of Respondent Central Pharmacy, violated Pharmacy laws and statutes as
6 more particularly described in paragraphs 12, 13, and 14, above.

7 SIXTH CAUSE FOR DISCIPLINE

8 (Actions Warranting Denial of License)

9 19. Respondents Toan P. Huynh and Central Pharmacy are subject to
10 disciplinary action under section 4301(p) in that Respondents Huynh, while owner and
11 Pharmacist-in-Charge of Respondent Central Pharmacy, engaged in actions or conduct which
12 warrant denial of a license as more particularly described in paragraphs 12, 13, and 14, above.

13 PRAYER

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

16 1. Revoking or suspending Pharmacy Permit No. PHY 42029, issued to
17 TOAN PHUOC HUYNH;

18 2. Revoking or suspending Pharmacy License No. RPH 45099, issued to
19 Toan P. Huynh, Pharmacist-in-Charge, of Respondent Central Pharmacy;

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

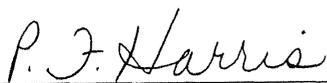
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Ordering Toan P. Huynh and Central Pharmacy to pay to the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 6/3/02



PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

03583110-sd1998ad0890
Rev. Acc. 3/25/02