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3 California Department of Justice
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6 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:

Case No. 2199

12 BINH TRONG HOANG
995 E. Portland Avenue
13 Fresno, CA 93720

OAH No. L-2002070093

14 Original Pharmacist License No. RPH 46734,

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER RE:
RESPONDENT BINH TRONG
HOANG**

15 DEANNA E. EDJAN
7362 Aspen Circle
16 La Palma, CA 90623

17 Original Pharmacist License No. RPH 47087,

18 BEATRIZ MONTALBO GONZALEZ
2384 Fashion Avenue
19 Long Beach, CA 90810

20 Original Pharmacist License No. RPH 43144,

21 TAI TRONG BUI
4438 W. 165th Street
22 Lawndale, CA 90260

23 Original Pharmacist License No. RPH 48096,

24 MARIA YVETTE RESTON
7717 Sierra Paseo Lane
25 Las Vegas, Nevada 89128

26 Original Pharmacist License No. RPH 44425,

27 Respondents.

28

1 the right to present evidence and to testify on his own behalf; the right to the issuance of
2 subpoenas to compel the attendance of witnesses and the production of documents; the right to
3 reconsideration and court review of an adverse decision; and all other rights accorded by the
4 California Administrative Procedure Act and other applicable laws.

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

7 CULPABILITY

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

12 9. Respondent agrees that his Original Pharmacist License is subject to
13 discipline and he agrees to be bound by the Board of Pharmacy's imposition of discipline as set
14 forth in the Disciplinary Order below.

15 RESERVATION

16 10. The admissions made by Respondent herein are only for the purposes of
17 this proceeding, or any other proceedings in which the Board of Pharmacy or other professional
18 licensing agency is involved, and shall not be admissible in any other criminal or civil
19 proceeding.

20 CONTINGENCY

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

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 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
5 force 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 Disciplinary Order:

9
10 **DISCIPLINARY ORDER**

- 11
- 12 a. IT IS HEREBY ORDERED that a letter of public reprimand be issued against
13 Respondent Binh Trong Hoang, holder of Original Pharmacist License No. RPH
14 46734.
- 15
- 16 b. Respondent shall pay to the Board \$1,500.00 in costs within 30 days of effective
17 date of the decision in this matter.
- 18
- 19 c. If said costs are not paid within that time, then Respondent will be placed on one
20 year of probation, with a 90 day suspension, under standard terms and conditions,
21 and he would not be able to own a pharmacy or act as a Pharmacist- in charge.
22 The costs shall be paid in monthly installments during the year of probation.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, William H. Weissberg, Esq. I understand the stipulation and the effect it will have on my Original Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

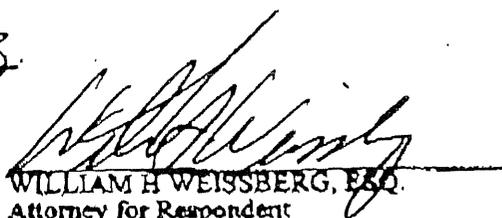
DATED: 06/11/03



BINH TRONG HOANG
Respondent

I have read and fully discussed with Respondent Binh Trong Hoang the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: JUNE 12, 2003



WILLIAM H WEISSBERG, ESQ.
Attorney for Respondent

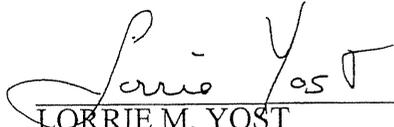
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ENDORSEMENT

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

DATED: June 10, 2003

BILL LOCKYER, Attorney General
of the State of California



LORRIE M. YOST
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:

BINH TRONG HOANG
995 E. Portland Avenue
Fresno, CA 93720

Original Pharmacist License No. RPH 46734,

Respondent.

Case No. 2199

OAH No. L-2002070093

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 October 22, 2003.

It is so ORDERED September 22, 2003.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Exhibit A
Accusation No. 2199

1 BILL LOCKYER, Attorney General
of the State of California
2 LORRIE M. YOST, State Bar No. 119088
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
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BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

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11 In the Matter of the Accusation Against:

Case No. 2199

12 BINH TRONG HOANG
995 E. Portland Avenue
13 Fresno, CA 93720

A C C U S A T I O N

14 Original Pharmacist License No. RPH 46734,

15 DEANNA E. EDJAN
7362 Aspen Circle
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24 MARIA YVETTE RESTON
7717 Sierra Paseo Lane
25 Las Vegas, Nevada 89128

26 Original Pharmacist License No. RPH 44425,

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Respondents.

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1 Complainant alleges:

2 PARTIES

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

6 2. On or about September 15, 1993, the Board of Pharmacy issued Original
7 Pharmacist License Number RPH 46734 to Binh Trong Hoang ("Respondent Hoang").
8 Respondent Hoang was the Pharmacist-in-Charge of M & D Pharmacy from August 18, 1995 to
9 November 27, 1995. The Original Pharmacy License was in full force and effect at all times
10 relevant to the charges brought herein and will expire on November 30, 2002, unless renewed.

11 3. On or about April 26, 1994, the Board of Pharmacy issued Original
12 Pharmacist License Number RPH 47087 to Deanna E. Edjan ("Respondent Edjan"). Respondent
13 Edjan was the Pharmacist-in-Charge of M & D Pharmacy from November 27, 1995 to April 1,
14 1996. The Original Pharmacist License was in full force and effect at all times relevant to the
15 charges brought herein and will expire on November 30, 2001, unless renewed.

16 4. On or about March 7, 1990, the Board of Pharmacy issued Original
17 Pharmacist License Number RPH 46734 to Beatriz Montalbo Gonzalez ("Respondent
18 Gonzalez"). Respondent Gonzalez was the Pharmacist-in-Charge of M & D Pharmacy from May
19 13, 1996 to July 24, 1996. The Original Pharmacist License was in full force and effect at all
20 times relevant to the charges brought herein and will expire on March 31, 2002, unless renewed.

21 5. On or about August 10, 1995, the Board of Pharmacy issued Original
22 Pharmacist License Number RPH 48096 to Tai Trong Bui ("Respondent Bui"). Respondent Bui
23 was the Pharmacist-in-Charge of M & D Pharmacy from July 24, 1996 to September 3, 1996.
24 The Original Pharmacist License was in full force and effect at all times relevant to the charges
25 brought herein and will expire on September 30, 2002, unless renewed.

26 6. On or about August 8, 1991, the Board of Pharmacy issued Original
27 Pharmacist License Number RPH 44425 to Maria Yvette Reston ("Respondent Reston").

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1 Respondent Reston was the Pharmacist-in-Charge of M & D Pharmaceutical Wholesale. The
2 Original Pharmacist License expired on May 31, 1999, and has not been renewed.

3 JURISDICTION

4 7. This Accusation is brought before the Board of Pharmacy ("Board"),
5 under the authority of the following sections of the Business and Professions Code ("Code").

6 8. Section 4301 of the Code states:

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

11 (a) Gross immorality.

12 (b) Incompetence.

13 (c) Gross negligence.

14 (d) The clearly excessive furnishing of controlled substances in violation of
15 subdivision (a) of Section 11153 of the Health and Safety Code.

16 (e) The clearly excessive furnishing of controlled substances in violation of
17 subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be
18 considered in determining whether the furnishing of controlled substances is clearly
19 excessive shall include, but not be limited to, the amount of controlled substances
20 furnished, the previous ordering pattern of the customer (including size and frequency of
21 orders), the type and size of the customer, and where and to whom the customer
22 distributes its product.

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

26 (g) Knowingly making or signing any certificate or other document that falsely
27 represents the existence or nonexistence of a state of facts.

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1 (h) The administering to oneself, of any controlled substance, or the use of any
2 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous
3 or injurious to oneself, to a person holding a license under Chapter 9 (commencing with
4 Section 4000) of the Business and Professions Code, or to any other person or to the
5 public, or to the extent that the use impairs the ability of the person to conduct with safety
6 to the public the practice authorized by the license.

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

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

12 (k) The conviction of more than one misdemeanor or any felony involving the
13 use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or
14 any combination of those substances.

15 (l) The conviction of a crime substantially related to the qualifications, functions,
16 and duties of a licensee under Chapter 9 (commencing with Section 4000) of the Business
17 and Professions Code. The record of conviction of a violation of Chapter 13
18 (commencing with Section 801) of Title 21 of the United States Code regulating
19 controlled substances or of a violation of the statutes of this state regulating controlled
20 substances or dangerous drugs shall be conclusive evidence of unprofessional conduct.
21 In all other cases, the record of conviction shall be conclusive evidence only of the fact
22 that the conviction occurred. The board may inquire into the circumstances surrounding
23 the commission of the crime, in order to fix the degree of discipline or, in the case of a
24 conviction not involving controlled substances or dangerous drugs, to determine if the
25 conviction is of an offense substantially related to the qualifications, functions, and duties
26 of a licensee under Chapter 9 (commencing with Section 4000) of the Business and
27 Professions Code. A plea or verdict of guilty or a conviction following a plea of nolo
28 contendere is deemed to be a conviction within the meaning of this provision. The board

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

7 (m) The cash compromise of a charge of violation of Chapter 13 (commencing
8 with Section 801) of Title 21 of the United States Code regulating controlled substances.
9 The record of the compromise is conclusive evidence of unprofessional conduct.

10 (n) The revocation, suspension, or other discipline by another state of a license to
11 practice pharmacy, operate a pharmacy, or do any other act for which a license is required
12 by Chapter 9 (commencing with Section 4000) of the Business and Professions Code.

13 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
14 abetting the violation of or conspiring to violate any provision or term of Chapter 9
15 (commencing with Section 4000) of the Business and Professions Code or of the
16 applicable federal and state laws and regulations governing pharmacy, including
17 regulations established by the board.

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

19 (q) Engaging in any conduct that subverts or attempts to subvert an investigation
20 of the board.

21 9. Section 4081 of the Code states:

22 (a) All records of manufacture and of sale, acquisition, or disposition of dangerous
23 drugs or dangerous devices shall be at all times during business hours open to inspection
24 by authorized officers of the law, and shall be preserved for at least three years from the
25 date of making. A current inventory shall be kept by every manufacturer, wholesaler,
26 pharmacy, medical device retailer, veterinary food-animal drug retailer, physician,
27 dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment
28 holding a currently valid and unrevoked certificate, license, permit, registration, or

1 exemption under Division 2 (commencing with Section 1200) of the Health and Safety
2 Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and
3 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

4 (b) The owner, officer, and partner of any pharmacy, wholesaler, veterinary
5 food-animal drug retailer, or medical device retailer shall be jointly responsible, with the
6 pharmacist-in-charge or exemptee, for maintaining the records and inventory described in
7 this section.

8 (c) The pharmacist-in-charge or exemptee shall not be criminally responsible for
9 acts of the owner, officer, partner, or employee that violate this section and of which the
10 pharmacist-in-charge or exemptee had no knowledge, or in which he or she did not
11 knowingly participate.

12 10. Section 4160 of the Code states:

13 (a) No person shall act as a wholesaler of any dangerous drug or dangerous device
14 unless he or she has obtained a license from the board. Upon approval by the board and
15 the payment of the required fee, the board shall issue a license to the applicant.

16 (b) No selling or distribution outlet, located in this state, of any out-of-state
17 manufacturer, that has not obtained a license from the board, that sells or distributes only
18 the dangerous drugs or the dangerous devices of that manufacturer, shall sell or distribute
19 any dangerous drug or dangerous device in this state without obtaining a wholesaler's
20 license from the board.

21 (c) A separate license shall be required for each place of business owned or
22 operated by a wholesaler. Each license shall be renewed annually and shall not be
23 transferable.

24 11. Section 4328 of the Code states:

25 Except as otherwise provided in Chapter 9 (commencing with Section 4000) of
26 the Business and Professions Code, any person who permits the compounding or
27 dispensing of prescriptions, or the furnishing of dangerous drugs in his or her pharmacy,
28 except by a pharmacist, is guilty of a misdemeanor.

1 12. Section 4330 of the Code states:

2 (a) Any person who has obtained a license to conduct a pharmacy, who fails to
3 place in charge of the pharmacy a pharmacist, or any person, who by himself or herself,
4 or by any other person, permits the compounding or dispensing of prescriptions, or the
5 furnishing of dangerous drugs, in his or her pharmacy, except by a pharmacist, or as
6 otherwise provided in Chapter 9 (commencing with Section 4000) of the Business and
7 Professions Code, is guilty of a misdemeanor.

8 (b) Any nonpharmacist owner who commits any act that would subvert or tend to
9 subvert the efforts of the pharmacist-in-charge to comply with the laws governing the
10 operation of the pharmacy is guilty of a misdemeanor.

11 13. Section 118 of the Code states:

12 “(a) The withdrawal of an application for a license after it has been filed with a
13 board in the department shall not, unless the board has consented in writing to such
14 withdrawal, deprive the board of its authority to institute or continue a proceeding against
15 the applicant for the denial of the license upon any ground provided by law or to enter an
16 order denying the license upon any such ground.

17 “(b) The suspension, expiration, or forfeiture by operation of law of a license
18 issued by a board in the department, or its suspension, forfeiture, or cancellation by order
19 of the board or by order of a court of law, or its surrender without the written consent of
20 the board, shall not, during any period in which it may be renewed, restored, reissued, or
21 reinstated, deprive the board of its authority to institute or continue a disciplinary
22 proceeding against the licensee upon any ground provided by law or to enter an order
23 suspending or revoking the license or otherwise taking disciplinary action against the
24 licensee on any such ground.

25 “(c) As used in this section, ‘board’ includes an individual who is authorized by
26 any provision of this code to issue, suspend, or revoke a license, and ‘license’ includes
27 ‘certificate,’ ‘registration,’ and ‘permit.’”

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1 18. Respondent Gonzalez is subject to disciplinary action pursuant to Code
2 section 4300 for unprofessional conduct within the meaning of Code section 4301 (c), (j), and
3 (o), as well as Code section 4113(b), in that, while she was pharmacist-in-charge, M & D
4 Pharmacy violated Code sections 4037(a), 4329, and 4330 in that dangerous drugs were stored
5 outside the licensed pharmacy area, within the control of non-pharmacists.

6 19. Respondent Reston is subject to disciplinary action pursuant to Code
7 section 4300 for unprofessional conduct within the meaning of Code section 4301(c), (f), (j), (o),
8 and (q), as well as Code section 4113(b), in that, while she was pharmacist-in-charge, M & D
9 Pharmaceutical Wholesale violated Code section 4081 and Title 16 of the California Code of
10 Regulations section 1718 in that it did not maintain accurate records of acquisition, disposition,
11 and an inventory of dangerous drugs from on or about August 18, 1995 to on or about June 17,
12 1996.

13 20. Respondent Reston is subject to disciplinary action pursuant to Code
14 section 4300 for unprofessional conduct within the meaning of Code section 4301 (f), (j), and
15 (o), as well as Code section 4113(b), in that, while she was pharmacist-in-charge, M & D
16 Pharmaceutical Wholesale violated Code section 4332 in that it did not produce records of
17 acquisition, disposition, and an inventory of dangerous drugs within a reasonable time when
18 requested to do so by an officer of the Board on or about June 17, 1996.

19 21. Respondent Hoang is subject to disciplinary action pursuant to Code
20 section 4300 for unprofessional conduct within the meaning of Code section 4301 (f), (g), (j),
21 (o), and (p) by reason of violating Code sections 480(c), 4110(a), and Title 16, California Code
22 of Regulations 1709(a), in that he made an application for licensure on behalf of M & D
23 Pharmacy representing himself as owner, while omitting the material fact that Lourdes
24 Castellano held an ownership interest in the pharmacy.

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