

ORIGINAL

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

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 2270

13 JON TEN SIN TYAU
7656 Bellaire Avenue
14 North Hollywood, CA 91605

STIPULATION,
DECISION
AND ORDER

15 Pharmacist No. RPH 23367

16 Respondent

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18 In the interest of a prompt and speedy settlement of this matter, consistent with the
19 public interest and the responsibility of the Board of Pharmacy (hereinafter "Board") the parties
20 submit this *Stipulation, Decision and Order* to the Board for its approval as the final disposition of
21 the Accusation no. 2270, as amended:

22 IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES TO THE
23 ABOVE-ENTITLED CASE that the following matters are true:

24 1. First Amended Accusation No. 2270 is currently pending against JON TEN
25 SIN TYAU (hereinafter "Respondent") to whom the Board of Pharmacy issued Original Pharmacist
26 License Number RPH 23367 on February 4, 1964. The License was in full force and effect at all
27 times relevant to the charges brought herein and will expire on July 31, 2004, unless renewed.

28 2. The original Accusation and First Amended Accusation were filed by
Complainant Patricia F. Harris in her official capacity as Executive Officer of the Board, an agency

1 of the Department of Consumer Affairs, State of California. The original Accusation, together with
2 all other statutorily required documents, was duly served on the Respondent on or about January 11,
3 2002 and Respondent filed his timely Notice of Defense contesting it. The First Amended
4 Accusation was served on Respondent in compliance with all statutory requirements on November
5 26, 2002. A copy of First Amended Accusation No. 2270 is attached hereto as **Exhibit "A"** and
6 incorporated herein by reference as though fully set forth.

7 3 Complainant herein is represented by the Attorney General of the State
8 of California, Susan Melton Wilson, Deputy Attorney General.

9 4. Respondent is advised and represented by Ronald S. Marks, A Professional
10 Law Corporation, by Ronald S. Marks.

11 5. Respondent has carefully read the First Amended Accusation. Respondent
12 understands the nature of the charges stated in the First Amended Accusation and that the charges
13 and allegations constitute a prima facie cause for imposing discipline upon his license.

14 6. Respondent is fully aware of his right to a hearing on the charges and
15 allegations contained in said First Amended Accusation, his rights to reconsideration, appeal and
16 all other rights accorded pursuant to the California Business and Professions Code and freely and
17 voluntarily waives all such rights.

18 7. Respondent understands that no hearing will be held and no witnesses will
19 be called and examined before the Board, no evidence or documents will be introduced, and that the
20 Board, in making its Decision and Order on the First Amended Accusation will only have before it
21 the First Amended Accusation and this Stipulation. Respondent understands that by entering into
22 this Stipulation he gives up his right to confront and cross-examine any and all witnesses against
23 him.

24 8. Respondent understands that by entering into this Stipulation he gives up
25 his right to seek reconsideration or to appeal to the courts of the State of California any Decision and
26 Order of the Board on the First Amended Accusation, and that by entering into this Stipulation , he
27 agrees that the Board may enter a final non-reviewable Decision and Order on the First Amended
28 Accusation.

1 9. The following admissions are for purposes of this Stipulation only, and are
2 made with the express understanding that any admissions made here are not to be used or admissible
3 in any collateral proceeding between Respondent and any party or parties other than the Board of
4 Pharmacy:

5 (a) Respondent admits the truth of all allegations stated in the First
6 Amended Accusation, and that he has subjected his license to discipline for violations of the laws
7 governing the practice of pharmacy in this state as described more fully in the First Amended
8 Accusation (Exhibit A).

9 (b) Respondent admits that the Board has jurisdiction to bring and
10 adjudicate all charges stated in the First Amended Accusation, and to impose disciplinary penalties
11 in this matter.

12 (c) In view of and based on the foregoing admissions, Respondent,
13 agrees to resolve charges and allegations made in the First Amended Accusation by the Board's
14 imposition of penalty as set out in the Order below.

15 10. It is stipulated and agreed that the Board had incurred costs within the
16 meaning of Business and Professions Code § 125.3 in the sum of six thousand dollars (\$6,000.00)
17 in investigation and prosecution of this matter.

18 11. This stipulation is solely for purposes of this proceeding, for any other
19 disciplinary proceedings by the Board, and for any petition for reinstatement, reduction of penalty,
20 or application for re-licensure, and shall have no force or effect in any other case or proceeding. In
21 any future proceedings before the Board, or in which the Board of Pharmacy and Respondent are
22 parties, Respondent and each of them may not deny the allegations admitted in paragraph 10 above,
23 and said allegations shall be deemed true without requiring the Board to present any further
24 evidence.

25 12. In the event this settlement is not adopted by the Board, this Stipulation will
26 not become effective and may not be used for any purpose.

27 13. Respondent understands that, in deciding whether to adopt this Stipulation,
28 the Board may receive oral and written presentations from, and make inquiries of the complainant,

1 her attorneys, the Board's attorneys, consulting experts and the Board's enforcement committee.

2 14. A facsimile signature on this document shall be binding as an original
3 signature. Respondent expressly authorizes use of facsimile signatures in lieu of original signatures
4 for all purposes relevant to the disposition of this matter and enforcement of the Stipulation.

5 **WHEREFORE IT IS FURTHER STIPULATED AND AGREED** by and
6 between the parties that the Board may issue the following disciplinary decision and order as its
7 Decision and Order in the matter of First Amended Accusation Number 2270.

8 The license of Respondent is hereby REVOKED. However, said revocation is stayed,
9 and the license placed on PROBATION for three (3) years upon the following Terms and
10 Conditions, which must be complied with during the probation:

11 **1. Obey All Laws.** Respondent shall obey all federal, state and regulations
12 substantially related to or governing the practice of pharmacy.

13 Respondent shall report any of the following occurrences to the Board, in writing,
14 within 72 hours of such occurrence:

15 - an arrest or issuance of a criminal complaint for violation of any provision of the
16 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substance laws;

17 - a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
18 criminal complaint, information or indictment;

19 - a conviction of any crime;

20 - discipline, citation, or other administrative action filed by any state and federal
21 agency which involves respondent's pharmacist license or which is related to the practice of
22 pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for of any
23 drug, device or controlled substance.

24 **2. Reporting to the Board.** Respondent shall report to the Board quarterly.
25 The report shall be made either in person or in writing, as directed. Respondent shall state under
26 penalty of perjury whether there has been compliance with all the terms and conditions of his
27 probation. If the final probation report is not made as directed, probation shall be extended
28 automatically until such time as the final report is made and accepted by the Board.

1 **3. Interview with the Board.** Upon receipt of reasonable notice, Respondent
2 shall appear in person for interviews with the Board upon request at various intervals at a location to
3 be determined by the Board . Failure to appear for a scheduled interview without prior notification
4 to Board staff shall be considered a violation of probation.

5 **4. Cooperation with Board Staff.** Respondent shall cooperate with the
6 Board's inspection program and in the Board's monitoring and investigation of the Respondent's
7 compliance with the terms and conditions of his probation. Failure to comply shall be considered
8 a violation of probation.

9 **5. Continuing Education.** Respondent shall provide evidence of efforts to
10 maintain skill and knowledge as a pharmacist as directed by the Board.

11 **6. Notice to Employers.** Respondent shall notify all present and prospective
12 employers of the decision in case no. 2270 and the terms, conditions and restrictions imposed on
13 Respondent by the decision. Within thirty (30) days of the effective date of this decision, and within
14 fifteen (15) days of Respondent undertaking new employment, Respondent shall cause his direct
15 supervisor, pharmacist-in-charge and /or owner to report to the Board in writing acknowledging the
16 employer has read the decision in case no. 2270.

17 If Respondent works for or is employed by or through a pharmacy employment
18 service, Respondent must notify the direct supervisor, pharmacist-in-charge and/or owner at every
19 pharmacy at which he is to be employed or used of the terms and conditions of the decision in case
20 no. 2270 in advance of the Respondent commencing work at each pharmacy.

21 "Employment" within the meaning of this provision shall include any full-time, part-
22 time, temporary, relief or pharmacy management service as a pharmacist, whether the Respondent
23 is considered an employee or independent contractor.

24 **7. No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge**
25 **(PIC) or Serving as a Consultant .** Respondent shall not supervise any intern pharmacist or perform
26 any of the duties of a preceptor, nor shall Respondent be the pharmacist -in-charge of any entity
27 licensed by the Board unless otherwise specified in this order.

28 **8. Psychotherapy.** Within thirty (30) days of the effective date of this decision,

1 Respondent shall submit to the Board, for its prior approval, the name and qualifications of a licensed
2 mental health practitioner of Respondent's choice. Should Respondent, for any reason, cease
3 treatment with the approved licenced mental health practitioner, Respondent shall notify the Board
4 immediately and within thirty (30) days of ceasing treatment, submit the name of a replacement
5 licensed mental health practitioner of Respondent's choice to the Board for its prior approval.

6 Therapy shall be at least once a week unless otherwise determined by the Board.

7 Respondent shall provide the therapist with a copy of the Board's Accusation and *Stipulation*,
8 *Decision and Order* in case no. 2270 no later than the first therapy session. Respondent shall take all
9 necessary steps to ensure that the treating therapist submits written quarterly reports to the Board
10 concerning Respondent's fitness to practice, progress in treatment , and to provide such other
11 information as may be required by the Board. If the treating therapist finds that Respondent cannot
12 practice safely or independently, the therapist shall notify the Board immediately by telephone and
13 follow up by written letter within three (3) working days.

14 Upon approval of the licensed mental health practitioner, Respondent shall undergo
15 and continue treatment, with that therapist and at Respondent's expense, until the Board deems that
16 no further psychotherapy is necessary. The Board may require Respondent to undergo psychiatric
17 evaluation(s) by a Board-appointed or Board-approved licensed mental health practitioner.

18 **9. Reimbursement of Board Costs.** Respondent shall reimburse to the Board
19 its costs of investigation and prosecution in the amount of six thousand dollars (\$6,000.00.) .
20 Respondent shall make said payments as follows:

21 An initial payment of seven hundred and fifty dollars (\$750.00) is to be made no later
22 than thirty (30) days after the effective date of this agreement. Thereafter, quarterly payments in the
23 amount of seven hundred and fifty dollars (\$750.00) are to be made through the first two years of
24 probation, until the total amount is paid in full. Respondent may pay off the full remaining unpaid
25 balance at any time. It is Respondent's responsibility to mail or otherwise deliver each payment
26 directly to the Board at the Board's Sacramento address.

27 The filing of bankruptcy by Respondent shall not relieve Respondent of his
28 responsibility to reimburse the Board its costs of investigation and prosecution.

1 Failure to repay costs as specified by the Board and on the date(s) determined by the
2 Board shall be considered a violation of probation.

3 **10. Probation Monitoring Costs.** Respondent shall pay the costs associated
4 with probation monitoring as determined by the Board each and every year of probation. Such costs
5 shall be payable to the Board at the end of each year of probation. Failure to pay such costs shall be
6 considered a violation of probation.

7 **11. Status of License.** Respondent shall, at all times, while on probation,
8 maintain an active, current license with the Board, including any period during which suspension or
9 probation is tolled. If Respondent's license expires or is canceled by operation of law or otherwise,
10 upon renewal or re-application, Respondent's licence shall be subject to all terms and conditions of
11 this probation not previously satisfied.

12 **12. License Surrender While on Probation /Suspension.** Following the
13 effective date of this decision, should Respondent cease practice due to retirement or health, or be
14 otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his license
15 to the Board for surrender. The Board shall have the discretion whether to grant the request for
16 surrender or take any other action it deems appropriate and reasonable . Upon formal acceptance of
17 the surrender of the license, Respondent will no longer be subject to the terms and conditions of
18 probation.

19 Upon acceptance of the surrender, Respondent shall relinquish his pocket license to
20 the Board within ten (10) days of notification by the Board that the surrender is accepted. Respondent
21 may not reapply for any license from the Board for three years from the effective date of the
22 surrender. Respondent shall meet all requirement applicable for the license sought as of the date the
23 application for the license is submitted to the Board.

24 **13. Notification of Employment/Mailing Address Change.** Respondent shall
25 notify the Board in writing within ten (10) days of any change of employment. Said notification shall
26 include the reasons for leaving and/or the address of the new employer, supervisor or owner and work
27 schedule if known. Respondent shall notify the Board in writing within ten (10) days of a change in
28 name, mailing address or phone number.

1 I concur in this stipulation, which is submitted to the Board of Pharmacy for
2 consideration as its decision in Case No.2270.

3 DATED: 12-10-02

4
5 
6 SUSAN MELTON WILSON
7 Deputy Attorney General
8 Attorney for Complainant

9 ACCEPTANCE OF STIPULATION BY RESPONDENT

10 I have carefully read and fully understand the *Stipulation, Decision and Order* set forth
11 above. I have discussed the terms and conditions set forth in the stipulation and order with my
12 attorney, RONALD S. MARKS. I understand that in signing this stipulation I am waiving my
13 right to a hearing on the charges set forth in First Amended Accusation No. 2270, a copy of which
14 is attached as "Exhibit A" to this Stipulation. I further understand that in signing this stipulation,
15 the Board shall enter the foregoing order by which my license will be subject to restrictions and
16 limitations, and that I will be placed on probation for three (3) years.

17
18 Dated: 12-2-02

19 
20 JON TEN SIN TYAU

21
22 I concur in the *Stipulation, Decision and Order*.

23
24 Dated: 12/5/02

25
26 
27 RONALD S. MARKS
28 Attorney for Respondent Tyau

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**DECISION AND ORDER
OF THE BOARD OF PHARMACY**

The foregoing *Stipulation, Decision and Order* in case no. 2270, is hereby adopted as the Order of the California Board of Pharmacy. An effective date of February 26, 2003, has been assigned to this Decision and Order.

Made this 27th day of January, 2003

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

A:NTYAU STIPULATION 9-5

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BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 2270

13 JON TEN SIN TYAU
7656 Bellaire Avenue
14 North Hollywood, CA 91605
15 Pharmacist No. RPH 23367

**FIRST AMENDED
ACCUSATION**

16 Respondent

17
18 PATRICIA F. HARRIS, for causes of discipline, alleges:

19 **PARTIES**

20 1. Complainant Patricia F. Harris ("Complainant") makes and files this First
21 Amended Accusation solely in her official capacity as the Executive Officer of the Board of
22 Pharmacy. The original Accusation in this matter was filed on December 19, 2001 and duly
23 served on Respondent on January 11, 2002.

24 2. On or about February 4, 1964, the Board of Pharmacy ("Board") issued
25 Original Pharmacist License Number RPH 23367 to Jon Ten Sin Tyau ("Respondent"). The
26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on July 31, 2004, unless renewed.
28

JURISDICTION

1
2 3. Under Business and Professions Code section 822, the Board may
3 discipline any licensee if his ability to practice pharmacy safely is impaired because the licensee
4 is mentally or physically ill, affecting competency.

5 4. Under Business and Professions code section 4301 the Board shall take
6 action against any holder of a license who is guilty of unprofessional conduct. "Unprofessional
7 conduct" is expressly defined at subsection "f", to include the commission of any act involving
8 moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the
9 course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or
10 not. "Unprofessional conduct" is further defined at subsection "j", to include violation of any of
11 the statutes of this state or of the United States regulating controlled substances and dangerous
12 drugs. "Unprofessional conduct" is further defined to include at subsection "o", violating or
13 attempting to violate, directly or indirectly, or assisting in or abetting the violation of or
14 conspiring to violate federal and state laws and regulations governing pharmacy, including
15 regulations established by the board.

16 5. Under Business and Professions Code section 4059 no person shall furnish
17 any dangerous drug or device, except upon the prescription of a physician, dentist, podiatrist,
18 optometrist, or veterinarian.

19 6. Under Business and Professions Code section 4105 all records and
20 documentation of the acquisition and disposition of dangerous drugs and dangerous devices by
21 any entity licensed by the board shall be retained on the licensed premises in a readily retrievable
22 form.

23 7. Title 16 of the California Code of Regulations, Section 1717, at
24 subsection "b" describes the information which shall be maintained by the pharmacy for each
25 prescription on file and readily retrievable: (1) the date dispensed, the name or initials for the
26 dispensing pharmacist; (2) identification of the drug dispensed ; (3) if the prescription is a refill,
27 a record of each refill, quantity dispensed (if different), and the name or initials of the dispensing
28 pharmacist. Section 1717 (b)(4) further requires that a new prescription must be created if there

1 is a change in the drug, strength, prescriber or directions for use, unless a complete record of
2 such changes is otherwise maintained.

3 8. Section 11173 subdivision (a) of the Health and Safety Code provides that
4 no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
5 the administration of or prescription for controlled substances, (1) by fraud, deceit,
6 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

7 9. Section 11173 subdivision (b) of Health and Safety Code provides that no
8 person shall make a false statement in any prescription, order, report, or record, required by laws
9 regulating controlled substances.

10 10. Business and Professions Code Section 125.3 provides that the Board
11 may request the administrative law judge to direct a licentiate found to have committed
12 violation(s) of the licensing act to pay a sum not to exceed the reasonable costs of the
13 investigation and enforcement of the case.

14 DRUG CLASSIFICATIONS

15 11. Drug Classifications:

16 AMOXIL is a dangerous drug as defined in section 4022 of the Business and
17 Professions Code and is an antibiotic used to treat infections of the ears and respiratory tract.

18 BENADRYL is a dangerous drug as defined in section 4022 of the Business and
19 Professions Code and is used as an antihistamine.

20 BIAXIN is a dangerous drug as defined in section 4022 of the Business and
21 Professions Code and is an antibiotic used for the treatment of mild-to-moderate infections in
22 multiple conditions, including upper respiratory infections, skin infections and ulcers.

23 CARISOPRODOL is a dangerous drug as defined in section 4022 of the
24 Business and Professions Code and is a skeletal muscle relaxant.

25 ELASE is a dangerous drug as defined in section 4022 of the Business and
26 Professions Code and is used as a topical cream/ointment used to treat wounds.

27 FOSAMAX is a dangerous drug as defined in section 4022 of the Business and
28 Professions Code and is used for the treatment and prevention of osteoporosis in postmenopausal

1 women.

2 **HYDROXYZINE** is a dangerous drug as defined in section 4022 of the Business
3 and Professions Code and is used to treat nausea and vomiting.

4 **KEFLEX** is a dangerous drug as defined in section 4022 of the Business and
5 Professions Code and is an antibiotic used to treat infections of the ears and respiratory tract.

6 **KLONOPIN** is classified as a schedule IV controlled substance listed under
7 Health and Safety Code section 11057(d) and is a benzodiazepine used in the treatment of
8 seizures

9 **LEVOXYL** is a dangerous drug as defined in section 4022 of the Business and
10 Professions Code and is used to treat hypothyroidism.

11 **ORTHO-CEPT 28** is a dangerous drug as defined in section 4022 of the
12 Business and Professions Code and is an oral contraceptive.

13 **PRILOSEC** is a dangerous drug as defined in section 4022 of the Business and
14 Professions Code and is used to treat ulcers.

15 **TRI-LEVLIN 28** is a dangerous drug as defined in section 4022 of the Business
16 and Professions Code and is an oral contraceptive.

17 **TRIPHASIL** is a dangerous drug as defined in section 4022 of the Business and
18 Professions Code and is an oral contraceptive.

19 **TYLENOL WITH CODEINE** is a schedule III narcotic, controlled substance,
20 listed under Health and Safety Code section 11056(e) and is an analgesic used in the treatment of
21 pain control.

22 **VALIUM** is a schedule IV controlled substance, listed under Health and Safety
23 Code section 11057(d) and is a benzodiazepine used in the treatment of anxiety, as a hypnotic,
24 anticonvulsant and muscle relaxant.

25 **VICODIN ES** (hydrocodone 7.5 mg with acetaminophen 750mg) is a schedule
26 III controlled substance as defined in Section 11056(e)(4) of the Health and Safety Code; a
27 dangerous drug as defined in section 4022(a) of the Business and Professions Codes; and is an
28 analgesic used to treat pain.

1 **DISPENSING DRUGS WITHOUT A PRESCRIPTION**

2 12. Respondent is subject to disciplinary action for unprofessional conduct
3 under Business and Professions Code section 4301(j) and 4301(o) in conjunction with section
4 4059(a) in that while employed at Vons Market Pharmacy, in May of 1998, Respondent
5 dispensed dangerous drugs without a legitimate prescription, on at least 8 occasions, as follows:

6 (A) Between approximately February, 1993 and June, 1998, Respondent was
7 employed by the pharmacy at Vons Market No. 2665, located on Sunset Boulevard in the city of
8 Los Angeles, ("Vons") as a "floater pharmacist" (employed to cover vacations, individual days
9 off, and "emergency relief" for other employees).

10 (B) In May of 1998, Respondent misappropriated various drug stock on at
11 least 8 occasions, by creating and filling unauthorized prescriptions for three fictitious (or
12 fictionalized) patients "Elizabeth P.", "Jorge G.", and "Barbara C ". Respondent falsified
13 pharmacy records to show a prescribing physician for each prescription, although none of the 8
14 prescriptions was authorized by the referenced physician , or other person authorized to
15 prescribe dangerous drugs. The date, patient, drug dispensed, and quantity of drug for each of
16 the 8 false and unauthorized prescriptions is detailed on the chart below:

17

<u>Date</u>	<u>Patient</u>	<u>RX #</u>	<u>Drug</u>	<u>Amount</u>
05/22/98	Elizabeth P	4025671	Valium	100 tablets
05/22/98	Elizabeth P	4025672	Tylenol/Codeine	34 tablets
05/22/98	Elizabeth P	4025673	Klonopin	30 tablets
05/22/98	Jorge G	4025676	Vicodin ES	100 tablets
05/22/98	Jorge G	4025677	Valium	100 tablets
05/22/98	Elizabeth P	6129430	Carisoprodol	100 tablets
05/22/98	Elizabeth P	6129429	Levoxyl	100 tablets
05/20/98	Barbara C	6129328	Ortho-cept 28	28 tablets

23

24 (C) Each of the 8 false prescriptions was for a "dangerous drug" within the
25 meaning of Business and Professions Code Section 4059. Respondent was the only
26 pharmacist working in the pharmacy at Vons on May 22, 1998.

27

28

1 **FAILURE TO KEEP RECORDS**

2 13. Respondent is subject to disciplinary action for unprofessional conduct
3 under Business and Professions Code section 4301(o) in conjunction with record keeping
4 requirements set out in section 4105 and Title 16, California Code of Regulations Section
5 1717(b), in that in May and June of 1998 , while employed as a pharmacist at Vons Market
6 pharmacy, Respondent destroyed, lost, or misplaced 20 hard copy prescription records, for
7 prescriptions he had filled while on duty at the pharmacy that week., as follows:

8 (A) Allegations of paragraphs 11 and 12 above are realleged as though fully
9 set forth.

10 (B) Additionally, investigation disclosed that in May and June of 1998,
11 Respondent destroyed, lost, or misplaced 20 hard copy prescription records for prescriptions he
12 filled while on duty at Vons. 8 of the 20 missing hard copy prescriptions were for false and
13 unauthorized prescriptions created by Respondent, as described in paragraph 14. 12 were for
14 legitimate, authorized prescriptions. The "lost" records were for the following transactions (the 8
15 false and unauthorized prescriptions are identified by the notation "NA"):

16

17	<u>Date</u>	<u>Patient</u>	<u>RX #</u>	<u>Drug</u>	<u>Amount</u>	<u>Not Authorized (NA) ; Lost (L)</u>
18	05/20/98	Alan R	6129305	Benadryl	10 ml	L
	05/20/98	Guia W.	6129330	Prilosec	20mg	L
19	05/22/98	Elizabeth P	4025671	Valium	100 tablets	L/NA
	05/22/98	Elizabeth P	4025673	Tylenol/Codeine	34 tablets	L/NA
20	05/22/98	Elizabeth P	4025672	Klonopin	30 tablets	L/NA
	05/22/98	Jorge G	4025676	Vicodine ES	100 tablets	L/NA
21	05/22/98	Jorge G	4025677	Valium	100 tablets	L/NA
	05/22/98	Elizabeth P	6129430	Carisoprodol	100 tablets	L/NA
22	05/22/98	Elizabeth P	6129429	Levoxyl	100 tablets	L/NA
	05/22/98	Francisca T	6129439	Fosamax	10 mg	L
23	06/04/98	Laura L	6129342	Tri-Levlen	84 tablets	L
	06/04/98	Barbara C	6129328	Ortho-cept 28	28 tablets	L/NA
24	06/04/98	Jesus P	6129308	Cephalexin	28 capsules	L
	06/04/98	Barbara C	6129327	Ortho-cept 28	28 tablets	L
25	06/04/98	Laura L	6129349	Triphasil	84 tablets	L
	06/04/98	Laura L	6129343	Tri-Levlen	84 tablets	L
26	06/04/98	John C	6129437	Elase	15 gm	L
	06/04/98	Mack Z	6129425	Amoxil	150 ml	L
27	06/04/98	Ivone P	6129346	Biaxin	500 mg	L
	06/04/98	Martin M	6129456	Cephalexin	250 ml	L

28

1 **FRAUD AND DECEIT**

2 14. Respondent is subject to disciplinary action for unprofessional conduct
3 under Business and Professions Code section 4301(j) and 4301(o) in conjunction with Health and
4 Safety Code section 11173(a)(1) and/or (a)(2) , in that while employed at Vons Market
5 Pharmacy, on at least 5 occasions in May, 1998, Respondent misappropriated scheduled drug
6 stock by creating and filling false and unauthorized prescriptions ; then took steps to conceal his
7 conduct by not keeping or destroying prescription records, as follows:

8 (A) Allegations of paragraphs 11,12 and 13 above are realleged as though
9 fully set forth.

10 (B) Additionally, the five referenced prescriptions are identified by date,
11 patient, prescription number, drug, amount and **schedule** in the chart below:

12

13 <u>Date</u>	<u>Patient</u>	<u>RX #</u>	<u>Drug</u>	<u>Amt</u>	<u>Schedule</u>
14 05/22/98	Elizabeth P	4025671	Valium	100 tablets	IV
05/22/98	Elizabeth P	4025673	Tylenol/Codeine	34 tablets	III
15 05/22/98	Elizabeth P	4025673	Klonopin	30 tablets	IV
05/22/98	Jorge G	4025676	Vicodin ES	100 tablets	III
16 05/22/98	Jorge G	4025677	Valium	100 tablets	IV

17 15. Respondent is subject to disciplinary action for unprofessional conduct
18 under Business and Professions Code section 4301(j) and 4301(o) in conjunction with Health and
19 Safety Code section 11173(b), in that while employed at Vons Market Pharmacy, in May, 1998,
20 Respondent misappropriated scheduled drug stock on at least 5 occasions, by creating false
21 prescriptions and/or pharmacy records, in which he made false statements about the patient(s)
22 and authorizing physician(s), as follows:

23 (A) Allegations of paragraphs 11,12,13 and 14 above are realleged as though
24 fully set forth.

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to really discuss and understand his disorder more fully, particularly the warning signs that his condition may be worsening and to learn how to deal with stress more effectively.

PRAYER

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

(A) Revoking or suspending Pharmacist Number RPH 23367, issued to Jon Ten Sin Tyau;

(B) Ordering Jon Ten Sin Tyau to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

(C) Taking such other and further action as the Board of Pharmacy deems necessary and proper.

DATED: 11/18/02

P. F. Harris

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