

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

In the Matter of the Accusation Against:

Case No. 3222

KEN ENG
1725 Silverstream Drive
Canyon Country, CA 91351

Pharmacist License No. RPH 35351

Respondent.

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 April 21, 2010.

It is so ORDERED on March 22, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

Kenneth H. Schell

KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR., Attorney General
2 of the State of California
3 KAREN B. CHAPPELLE
4 Supervising Deputy Attorney General
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12 Attorneys for Complainant

13 **BEFORE THE**
14 **BOARD OF PHARMACY**
15 **DEPARTMENT OF CONSUMER AFFAIRS**
16 **STATE OF CALIFORNIA**

17 In the Matter of the Accusation Against:

Case No. 3222

18 KEN ENG aka SIU KEUNG NG
19 1725 Silverstream Drive
20 Canyon Country, CA 91351

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

21 Pharmacist License No. RPH 35351

22 Respondent.

23 In the interest of a prompt and speedy settlement of this matter, consistent with the
24 public interest and the responsibility of the Board of Pharmacy, Department of Consumer
25 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
26 which will be submitted to the Board for approval and adoption as the final disposition of the
27 Accusation.

PARTIES

28 1. Virginia Herold. (Complainant) is the Executive Officer of the Board of
Pharmacy (Board). She brought this action solely in her official capacity and is represented in
this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Gloria A.
Barrios, Supervising Deputy Attorney General.

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1 deemed admissions for any purpose in any other administrative, civil, or criminal action
2 proceeding.

3 **CULPABILITY**

4 9. Respondent admits the truth of each and every charge and allegation in
5 Accusation Case No. 3222.

6 10. Respondent agrees that his Pharmacist License is subject to discipline and
7 he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
8 Order below.

9 **CONTINGENCY**

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

20 **OTHER MATTERS**

21 12. The parties understand and agree that facsimile copies of this Stipulated
22 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
23 force and effect as the originals.

24 **DISCIPLINARY ORDER**

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

28 IT IS HEREBY ORDERED that Pharmacist License RPH No. 35351 issued to

1 Respondent Ken Eng aka Siu Keung Ng is revoked. However, the revocation is stayed and
2 Respondent is placed on probation for five (5) years on the following terms and conditions:

3 1. **Obey All Laws**

4 Respondent shall obey all state and federal laws.

5 Respondent shall report any of the following occurrences to the Board, in writing within seventy-
6 two (72) hours of such occurrence:

- 7 • an arrest or issuance of a criminal complaint for violation of any provision
- 8 of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled
- 9 substances laws
- 10 • a plea of guilty or nolo contendere in any state or federal criminal
- 11 proceeding to any criminal complaint, information or indictment
- 12 • a conviction of any crime
- 13 • discipline, citation, or other administrative action filed by any state or
- 14 federal agency which involves Respondent's pharmacy license or which is related to the practice
- 15 of pharmacy or the manufacturing, obtaining, handling, distributing, or charging for any drug,
- 16 device or controlled substance.

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

18 2. **Reporting to the Board**

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

27 3. **Interview with the Board**

28 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews with

1 the Board or its designee, at such intervals and location as are determined by the Board or its
2 designee. Failure to appear for any scheduled interview without prior notification to Board staff,
3 or failure to appear for two (2) or more scheduled interviews with the Board or its designee
4 during the period of probation, shall be considered a violation of probation.

5 **4. Cooperation with Board Staff**

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

9 **5. Continuing Education**

10 Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as
11 directed by the Board or its designee.

12 **6. Notice to Employers**

13 During the period of probation, Respondent shall notify all present and prospective employers of
14 the decision in Case No. 3222 and the terms, conditions and restrictions imposed on Respondent
15 by the decision, as follows:

16 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
17 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
18 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
19 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
20 individual(s) have read the decision in Case No. 3222 and terms and conditions imposed thereby.
21 It shall be Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit
22 timely acknowledgment(s) to the Board.

23 If Respondent works for or is employed by or through a pharmacy employment service,
24 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
25 licensed by the Board of the terms and conditions of the decision in Case No. 3222 in advance of
26 the Respondent commencing work at each licensed entity. A record of his notification must be
27 provided to the Board upon request.

28 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15)

1 days of Respondent undertaking any new employment by or through a pharmacy employment
2 service to report to the Board in writing acknowledging that he or she has read the decision in
3 Case Number 3222 and the terms and conditions imposed thereby. It shall be Respondent's
4 responsibility(s) to the Board.

5 Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to
6 submit timely acknowledgments to the Board shall be considered a violation of probation.

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

9 During the period of probation, Respondent shall not supervise any intern pharmacist, be the
10 pharmacist-in-charge of any entity licensed by the Board nor serve as a consultant unless
11 otherwise specified in this order. Assumption of any such unauthorized supervision
12 responsibilities shall be considered a violation of probation.

13 **8. Reimbursement of Board Costs**

14 As a condition precedent to successful completion of probation, Respondent shall pay to the
15 Board its costs of investigation and prosecution in the amount of \$2,057.00. Respondent shall
16 make said payments as follows:

17 Respondent shall pay \$34.28 on the first of each month for sixty (60) months or five (5) years
18 until the entire total amount of \$2,057.00 is paid in full.

19 There shall be no deviation from this schedule absent prior written approval by the Board or its
20 designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
21 probation.

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

24 **9. Probation Monitoring Costs**

25 Respondent shall pay any costs associated with probation monitoring as determined by the Board
26 each and every year of probation. Such costs shall be payable to the Board on a schedule as
27 directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
28 shall be considered a violation of probation.

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10. Status of License.

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

If Respondent's license expires or is canceled by operation of law or otherwise at any time during the period of probation, including any extension thereof due to tolling or otherwise, upon renewal or reapplication, Respondent's license shall be subject to all terms and conditions of the probation not previously satisfied.

11. License Surrender While on Probation

Following the effective date of this decision, should Respondent ceases practicing due to retirement, or health or be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his license to the Board for surrender. The Board or its designee shall have the discretion whether to grant the request for surrender or to take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the Board. Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall license to the Board within ten (10) days of notification by the Board that the surrender is accepted.

Respondent may not reapply for any license from the Board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as if the date the application for that license is submitted to the Board, including any outstanding costs.

12. Notification of a Change in Name, Residence Address, Mailing Address or Employment Change

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

1 address, or phone number.

2 13. Tolling of Probation

3 Except during periods of suspension, Respondent shall, at all times while on probation, be
4 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
5 month during which this minimum is not met shall toll the period of probation, i.e., the period of
6 probation shall be extended by one month for each month during which this minimum is not met.
7 During any such period of tolling of probation, Respondent must nonetheless comply with all
8 terms and conditions of probation.

9 Should Respondent, regardless of residency, for any reason (including vacation) cease practicing
10 as a pharmacist for a minimum of 40 hours per calendar month in California, Respondent must
11 notify the Board in writing within ten (10) days of the cessation of practice, and must further
12 notify the Board in writing within ten (10) days of the resumption of practice. Any failure to
13 provide such notification(s) shall be considered a violation of probation.

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

17 "Cessation of practice" means any calendar month during which Respondent is not
18 practicing as a pharmacist for at least 40 hours, as defined by Business and Professions
19 Code section 4000 et seq. Resumption of Practice" means any calendar month during
20 which Respondent is practicing as a pharmacist for at least 40 hours as a pharmacist as
21 defined by Business and Professions Code section 4000 et seq.

22 Respondent is required to practice as a pharmacist in a licensed pharmacy setting that dispenses
23 medication. After the first year of probation, the Board or its may consider a modification of this
24 requirement. If Respondent fails to comply with this requirement or a subsequent modification
25 thereto, such failure shall be considered a violation of probation.

26 14. Violation of Probation

27 If a Respondent has not complied with any term or condition of probation, the Board shall have
28 continuing jurisdiction over Respondent, and probation shall automatically be extended, until all

1 terms and conditions have been satisfied or the Board has taken other action as deemed
2 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
3 to impose the penalty that was stayed.

4 If Respondent violates probation in any respect, the Board, after giving Respondent notice and an
5 opportunity to be heard, may revoke probation and carry out the disciplinary order stayed. Notice
6 and opportunity to be heard are not required for those provisions stating that a violation thereof
7 may lead to automatic termination of the stay and/or revocation of the license. If a petition to
8 revoke probation or an accusation is filed against Respondent during probation, the Board shall
9 have continuing jurisdiction and the period of probation shall be automatically extended, until the
10 petition to revoke probation or accusation is heard and decided.

11 **15. Completion of Probation**

12 Upon written notice by the Board or its designee indicating successful completion of probation,
13 Respondent's license will be fully restored.

14 **16. Pharmacist Recovery Program (PRP)**

15 Within thirty (30) days of the effective date of this decision, Respondent shall contact the
16 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
17 successfully participate in, and complete the treatment contract and any subsequent addendums
18 as recommended and provided by the PRP and as approved by the Board or its designee. The
19 costs for PRP participants shall be borne by the Respondent.

20 If Respondent is currently enrolled in the PRP, said participation is now mandatory and as of the
21 effective date of this decision is no longer considered a self-referral under Business and
22 Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete
23 his current contract and any subsequent addendums with the PRP.

24 Failure to timely contact or enroll in the PRP, or successfully participate in and complete the
25 treatment contract and/or any addendums, shall be considered a violation of probation.

26 Probation shall be automatically extended until Respondent successfully completes the PRP.

27 Any person terminated from the PRP program shall be automatically suspended by the Board.

28 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

1 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed
2 practitioner as part of a documented medical treatment shall result in the automatic suspension of
3 practice by Respondent and shall be considered a violation of probation. Respondent may not
4 resume the practice of pharmacy until notified by the Board in writing.

5 During suspension, Respondent shall not enter any pharmacy area or any portion of the licensed
6 premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs
7 which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or
8 controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
9 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
10 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
11 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
12 and controlled substances. Respondent shall not resume practice until notified by the Board.

13 During suspension, Respondent shall not engage in any activity that requires the professional
14 judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of
15 pharmacy. Respondent shall not direct or control any aspect of the practice of pharmacy.

16 Respondent shall not perform the duties of a pharmacy technician or a designated representative
17 for any entity licensed by the Board.

18 Subject to the above restrictions, Respondent may continue to own or hold an interest in any
19 licensed premises in which he holds an interest at the time this decision becomes effective unless
20 otherwise specified in this order.

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

22 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not timely
23 paid to the PRP shall constitute a violation of probation. The Board will collect unpaid
24 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

25 **17. Random Drug Screening**

26 Respondent, at his own expense, shall participate in random testing, including but not limited to
27 biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening
28 program as directed by the Board or its designee. Respondent may be required to participate in

1 testing for the entire probation period and the frequency of testing will be determined by the
2 Board or its designee. At all times, Respondent shall fully cooperate with the Board or its
3 designee, and shall, when directed, submit to such tests and samples for the detection of alcohol,
4 narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or its designee
5 may direct. Failure to timely submit to testing as directed shall be considered a violation of
6 probation. Upon request of the Board or its designee, Respondent shall provide documentation
7 from a licensed practitioner that the prescription for a detected drug was legitimately issued and
8 is a necessary part of the treatment of the Respondent. Failure to timely provide such
9 documentation shall be considered a violation of probation. Any confirmed positive test for
10 alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented
11 medical treatment shall be considered a violation of probation and shall result in the automatic
12 suspension of practice of pharmacy by Respondent. Respondent may not resume the practice of
13 pharmacy until notified by the Board in writing.

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

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

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

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

2 **18. Abstain from Drugs and Alcohol Use**

3 Respondent shall completely abstain from the possession or use of alcohol, controlled
4 substances, dangerous drugs and their associated paraphernalia except when the drugs are
5 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
6 request of the Board or its designee, Respondent shall provide documentation from the licensed
7 practitioner that the prescription for the drug was legitimately issued and is necessary part of the
8 treatment of the Respondent. Failure to timely provide such documentation shall be considered a
9 violation of probation. Respondent shall ensure that he is not in the same physical location as
10 individuals who are using illicit substances even if Respondent is not personally ingesting the
11 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
12 not supported by the documentation timely provided, and/or any physical proximity to persons
13 using illicit substances, shall be considered a violation of probation.

14 **19. Prescription Coordination and Monitoring of Prescription Use**

15 Within thirty (30) days of the effective date of this decision, Respondent shall submit to the
16 Board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
17 physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the
18 Respondent's history (with the use of alcohol, controlled substances, and/or dangerous drugs,
19 and/or of mental illness, and/or of gambling addiction and who will coordinate and monitor any
20 prescriptions for Respondent for dangerous drugs, controlled substances, or mood-altering drugs.
21 The approved practitioner shall be provided with a copy of the Board's (accusation or petition to
22 revoke probation) and decision. A record of this notification must be provided to the Board upon
23 request. Respondent shall sign a release authorizing the practitioner to communicate with the
24 Board about Respondent's treatment(s). The coordinating physician, nurse practitioner,
25 physician assistant, or psychiatrist shall report to the Board on a quarterly basis for the duration
26 of probation regarding Respondent's compliance with this condition. If any substances
27 considered addictive have been prescribed, the report shall identify a program for the time
28 limited use of any such substances. The Board may require that the single coordinating

1 physician, nurse practitioner, physician assistant, or psychiatrist be a specialist in addictive
2 medicine, or consult a specialist in addictive medicine. Should Respondent, for any reason,
3 cease supervision by the approved practitioner, Respondent shall notify the Board immediately
4 and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician,
5 nurse practitioner, physician assistant, or psychiatrist of Respondent's choice to the Board or its
6 designee for its prior approval. Failure to timely submit the selected practitioner or replacement
7 practitioner to the Board for approval, or to ensure the required reporting thereby on the quarterly
8 reports, shall be considered a violation of probation.

9 If at any time an approved practitioner determines that Respondent is unable to practice safely or
10 independently as a pharmacist, the practitioner shall notify the Board immediately by telephone
11 and follow up by written letter within three (3) working days. Upon notification from the Board
12 or its designee of this determination, Respondent shall be automatically suspended and shall not
13 resume practice until notified by the Board that practice may be resumed.

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

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

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

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

2 20. **Supervised Practice**

3 During the period of probation, Respondent shall practice only under the supervision of a
4 licensed pharmacist not on probation with the Board. Upon and after the effective date of this
5 decision, Respondent shall not practice pharmacy and his license shall be automatically
6 suspended until a supervisor is approved by the Board or its designee. The supervision shall be,
7 as required by the Board or its designee, either:

8 Continuous-At least 75% of a work week

9 Substantial-At least 50% of a work week

10 Partial-At least 25% of a work week

11 Daily Review-Supervisor's review of a probationer's daily activities within 24
12 hours

13 Within thirty (30) days of the effective date of this decision, Respondent shall have his
14 supervisor submit notification to the Board in writing stating that the supervisor has read the
15 decision in Case No. 3222 and is familiar with the required level of supervision as determined by
16 the Board or its designee. It shall be the Respondent's responsibility to ensure that his
17 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgment(s) to the
18 Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
19 acknowledgments to the Board shall be considered a violation of probation.

20 If Respondent changes employment, it shall be the Respondent's responsibility to ensure that his
21 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgments to the
22 Board. Respondent shall have his new supervisor, within fifteen (15) days after employment
23 commences, submit notification to the Board in writing stating the direct supervisor and
24 pharmacist-in-charge have read the decision in Case No. 3222 and is familiar with the level of
25 supervision as determined by the Board. Respondent shall not practice pharmacy and his license
26 shall be automatically suspended until the Board or its designee approves a new supervisor.

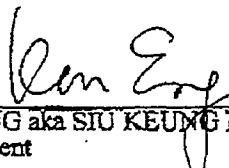
27 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
28 acknowledgments to the Board shall be considered a violation of probation.

1 Within ten (10) days of leaving employment, Respondent shall notify the Board in writing.
2 During suspension, Respondent shall not enter any pharmacy area or any portion of the licensed
3 premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs
4 which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or
5 controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
6 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
7 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
8 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
9 and controlled substances. Respondent shall not resume practice until notified by the Board.
10 During suspension, Respondent shall not engage in any activity that requires the professional
11 judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of
12 pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated
13 representative for any entity licensed by the Board.
14 Subject to the above restrictions, Respondent may continue to own or hold an interest in any
15 licensed premises in which he holds an interest at the time this decision becomes effective unless
16 otherwise specified in this order.
17 Failure to comply with this suspension shall be considered a violation of probation.
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20 ACCEPTANCE

21 I have carefully read the Stipulated Settlement and Disciplinary Order. I
22 understand the stipulation and the effect it will have on my Pharmacist License. I enter into this
23 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
24 to be bound by the Decision and Order of the Board of Pharmacy.

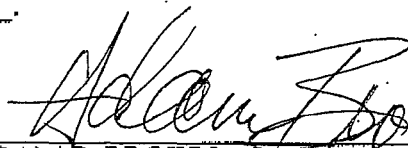
25 DATED: Dec 6, 2009

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28 KEN ENG aka SIU KEUNG NG
Respondent

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I concur with this stipulated settlement.

DATED: 12-7-09



ADAM B. BROWN
Attorney for Respondent

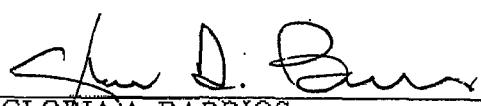
ENDORSEMENT

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

DATED: 12/17/09

EDMUND G. BROWN JR., Attorney General
of the State of California

KAREN B. CHAPPELLE
Supervising Deputy Attorney General



GLORIA A. BARRIOS
Supervising Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2007601145
ENG. STIP.WPD

Exhibit A
Accusation No. 3222

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ALFREDO TERRAZAS
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3 GLORIA A. BARRIOS, State Bar No. 94811
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6 Attorneys for Complainant
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10 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation Against:

Case No. 3222.

13 KEN ENG,
a.k.a. SIU KEUNG NG
14 17725 Silverstream Drive
Canyon Country, CA 91351

ACCUSATION

15 Pharmacist License No. RPH 35351

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold ("Complainant") brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Pharmacy ("Board"), Department of
22 Consumer Affairs.
- 23 2. On or about May 13, 1980, the Board issued Pharmacist License Number
24 RPH 35351 to Ken Eng, also known as Siu Keung Ng ("Respondent"). Respondent's pharmacist
25 license was in full force and effect at all times relevant to the charges brought herein and will
26 expire on June 30, 2010, unless renewed.

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5. Bus. & Prof. Code section 4022 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.

6. Bus. & Prof. Code section 4060 states, in pertinent part:

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 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer . . .

7. Bus. & Prof. Code section 4327 states that any person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor.

8. Health and Safety Code ("Health & Saf. Code") section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for himself.

9. Health & Saf. Code section 11350, subdivision (a), states:

Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

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1 COST RECOVERY

2 10. Bus. & Prof. Code section 125.3 states, in pertinent part, that the Board
3 may request the administrative law judge to direct a licentiate found to have committed a
4 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
5 investigation and enforcement of the case.

6 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS AT ISSUE

7 11. "Vicodin", a combination drug containing hydrocodone and
8 acetaminophen, is a Schedule III controlled substance as designated by Health & Saf. Code
9 section 11056, subdivision (e)(4). Vicodin is also a dangerous drug within the meaning of Bus.
10 & Prof. Code section 4022 in that it is available by prescription only.

11 12. "Fioricet," a brand of butalbital, is a dangerous drug within the meaning of
12 Business and Professions Code section 4022 in that it requires a prescription under federal law.
13 Each tablet contains 50 mg butalbital, 325 mg acetaminophen, and 40 mg caffeine.

14 STATEMENT OF FACTS

15 13. On or about January 28, 2007, while employed and on duty as a
16 pharmacist at Von's Pharmacy located in Granada Hills, California, Respondent was observed by
17 a store supervisor to be under the influence of an unknown substance. The paramedics were
18 called and Respondent was transported by ambulance to the emergency room at Holy Cross
19 Hospital, Mission Hills. Respondent underwent a urine drug screen and tested positive for
20 opiates and barbiturates.

21 14. On May 20, 2008, the Board's inspector, Roger Toevs ("Toevs"), RPH,
22 interviewed Respondent. Respondent stated that he had ingested Vicodin and Fioricet, that he
23 had obtained the Vicodin and Fioricet from a friend, and that he did not have prescriptions for the
24 medications. That same day, Respondent provided Toevs with a declaration, stating that he had
25 "borrowed" a few Vicodin and Fioricet tablets from a friend's medicine chest to treat a chronic
26 toothache, and that he had blacked out at the pharmacy after taking the medications.

27 15. On July 17, 2008, Toevs obtained documentation from Von's Pharmacy
28 indicating that Respondent had filled 19 new prescriptions and 30 refills on January 28, 2008.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 16. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
4 section 4301, subdivision (c), on the grounds of unprofessional conduct, in that on or about
5 January 28, 2007, while on duty as a pharmacist at Von's Pharmacy located in Granada Hills,
6 California, Respondent committed acts of gross negligence, as follows: Respondent dispensed or
7 compounded drugs while under the influence of the controlled substance Vicodin and dangerous
8 drug Fioricet, and used the medications to an extent or in a manner dangerous or injurious to
9 himself and others, or to the extent that such use impaired his ability to conduct his pharmacist
10 duties safely, as set forth in paragraphs 13 through 15 above.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Self-Administration of Controlled Substances)**

13 17. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
14 section 4301, subdivision (h), on the grounds of unprofessional conduct, in that on or about
15 January 28, 2007, while on duty as a pharmacist at Von's Pharmacy located in Granada Hills,
16 California, Respondent self-administered an unknown quantity of the controlled substance
17 Vicodin, and used Vicodin and the dangerous drug Fioricet to an extent or in a manner dangerous
18 or injurious to himself and others, or to the extent that such use impaired his ability to conduct
19 his pharmacist duties safely, as set forth in paragraphs 13 through 15 above.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Violations of State Statutes Regulating Controlled Substances)**

22 18. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
23 section 4301, subdivision (j), on the grounds of unprofessional conduct, in that on or about
24 January 28, 2007, while on duty as a pharmacist at Von's Pharmacy located in Granada Hills,
25 California, Respondent violated the following state statutes regulating controlled substances:

26 a. Respondent possessed an unknown quantity of the controlled substance
27 Vicodin without a lawful prescription for the medication from a physician, dentist, podiatrist,

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1 optometrist, or veterinarian, in violation of Bus. & Prof. Code section 4060 and Health & Saf.
2 Code section 11350, subdivision (a).

3 b. Respondent prescribed, administered, or furnished an unknown quantity of
4 the controlled substance Vicodin to himself, as set forth in paragraphs 13 through 15 above, in
5 violation of Health & Saf. Code section 11170.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Violations of State Laws and Regulations Governing Pharmacy)**

8 19. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
9 section 4301, subdivision (o), on the grounds of unprofessional conduct, in that on or about
10 January 28, 2007, while on duty as a pharmacist at Von's Pharmacy located in Granada Hills,
11 California, Respondent violated or attempted to violate, directly or indirectly, or assisted in or
12 abetted the violation of, or conspired to violate, the following state law governing pharmacy: On
13 the date indicated above, Respondent dispensed or compounded drugs while under the influence
14 of the controlled substance Vicodin and dangerous drug Fioricet, in violation of Bus. & Prof.
15 Code section 4327.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacist License Number RPH 35351, issued
20 to Ken Eng, also known as Siu Keung Ng;

21 2. Ordering Ken Eng, also known as Siu Keung Ng, to pay the Board of
22 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
23 Business and Professions Code section 125.3;

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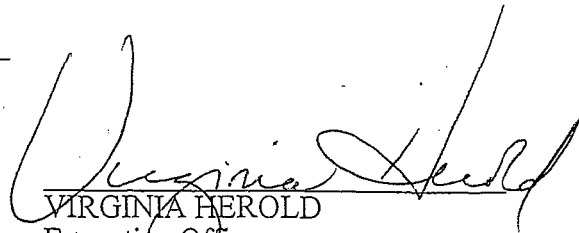
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3. Taking such other and further action as deemed necessary and proper.

DATED: 6/23/09



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

Complainant