

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

In the Matter of the Accusation Against:

Case No. 3234

**MICHELLE H. MAI**  
16051 E. Trevino Drive  
Fountain Hills, AZ 85268

Pharmacist License No. RPH 58012

Respondent.

**DECISION AND ORDER**

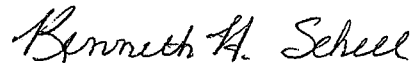
The attached Stipulated Revocation of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on January 28, 2010.

It is so ORDERED on December 29, 2009.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



\_\_\_\_\_  
KENNETH H. SCHELL  
Board President

**ORIGINAL**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ARTHUR TAGGART  
Supervising Deputy Attorney General  
3 STERLING A. SMITH  
Deputy Attorney General  
4 State Bar No. 84287  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-0378  
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3234

12 **MICHELLE H. MAI**  
13 **16051 E. Trevino Drive**  
**Fountain Hills, Arizona 85268**

OAH Case No. 2009080771

14 **Pharmacist License No. RPH 58012**

**STIPULATION FOR REVOCATION OF  
LICENSE AND ORDER**

15 Respondent.

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
18 proceeding that the following matters are true:

19 PARTIES

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
21 She brought this action solely in her official capacity and is represented in this matter by Edmund  
22 G. Brown Jr., Attorney General of the State of California, by Sterling A. Smith, Deputy Attorney  
23 General.

24 2. Michelle H. Mai (Respondent) is represented in this proceeding by attorney Brenda  
25 Maloney, whose address is Quarles & Brady, LLP, One Renaissance Square, Two North Central  
26 Avenue, Phoenix, Arizona 85004.

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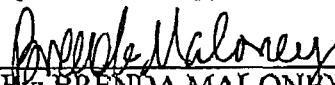
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ACCEPTANCE

I have carefully read the above Stipulation for Revocation of License and Order and have fully discussed it with my attorney, Brenda Maloney. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulation for Revocation of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 11/1/09   
MICHELLE H. MAI, Respondent

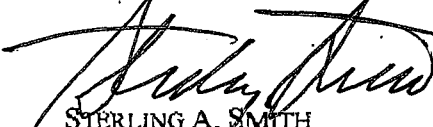
I have read and fully discussed with Respondent Michelle H. Mai the terms and conditions and other matters contained in this Stipulation for Revocation of License and Order. I approve its form and content.

DATED: 11/2/09   
By: BRENDA MALONEY  
Attorney for Respondent

Quarles & Brady, LLP

ENDORSEMENT

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

Dated: November 2, 2009 Respectfully submitted,  
EDMUND G. BROWN JR.  
Attorney General of California  
ARTHUR TAGGART  
Supervising Deputy Attorney General  
  
STERLING A. SMITH  
Deputy Attorney General  
Attorneys for Complainant

SA2008305725  
Stipulation.rtf

**Exhibit A**

**Amended Accusation No. 3234**

1 EDMUND G. BROWN, JR., Attorney General  
of the State of California  
2 ARTHUR TAGGART  
Supervising Deputy Attorney General  
3 STERLING A. SMITH,  
Deputy Attorney General, State Bar # 84287  
4 California Department of Justice  
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6 Telephone: (916) 445-0378  
Facsimile: (916) 327-8643  
7 Attorneys for Complainant

8  
9 **BEFORE THE**  
10 **BOARD OF PHARMACY**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 3234

14 **MICHELLE H. MAI**  
15 15837 E. Palomino Blvd.  
16 Fountain Hills, Arizona 85268

**AMENDED ACCUSATION**

17 Pharmacy License No. RPH 58012

Respondent.

18 Complainant alleges:

19 PARTIES

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

23 2. On or about December 29, 2005, the Board of Pharmacy issued Pharmacist  
24 License No. RPH 58012 to Michelle H. Mai (Respondent). The Pharmacist License was in full  
25 force and effect at all times relevant to the charges brought herein and will expire on December  
26 31, 2009, unless renewed. Respondent also holds Pharmacist License No. 12319 issued by the  
27 Arizona State Board of Pharmacy, restricted as alleged herein.

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1 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the  
2 following:

3 ....

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

7 ...

8 (l) The conviction of a crime substantially related to the qualifications, functions,  
9 or duties of a licensee under this chapter.

10 ...

11 (n) The revocation, suspension, or other discipline by another state of a license to  
12 practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this  
13 chapter.”

14 ...

15 7. Section 4301.5(a) of the Code states, in pertinent part:

16 “If a pharmacist possesses a license or is otherwise authorized to practice  
17 pharmacy in any other state or by an agency of the federal government, and that license or  
18 authority is suspended or revoked, the pharmacist’s license shall be suspended automatically for  
19 the duration or revocation, unless terminated or rescinded as provided in subdivision (c).”

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

24 FIRST CAUSE FOR DISCIPLINE

25 (Conviction of a Crime)

26 9. Respondent is subject to disciplinary action for unprofessional conduct  
27 under sections 490 and 4301(l) of the Code in that Respondent is convicted of a crime  
28 substantially related to the qualifications, functions, or duties of the pharmacist license issued to

1 Respondent. On or about November 17, 2008, in *United States of America v. Michelle Hoa-*  
2 *Chuong Mai*, United States District Court, District of Arizona, Case No. CR-08-00592-001PHX-  
3 FJM, Respondent entered her plea of guilty to violation of Title 18, United States Code section  
4 1341 (mail fraud), a felony, whereby Respondent and Robert Hahn knowingly and willfully  
5 devised and intend to devise a scheme and artifice to defraud and to obtain money by means of  
6 materially false and fraudulent pretenses and representations. As part of her sentence,  
7 Respondent is prohibited from the practice of pharmacy until June 16, 2013. The circumstances  
8 of Respondent's felony conviction are given below.

9 (a) Respondent and Robert Hahn, both licensed pharmacists employed at Basha's  
10 Pharmacy #19, 3115 S. McClintock Road, Tempe, Arizona., submitted false and fraudulent  
11 prescription labels with rebate coupons to various pharmaceutical companies and requested  
12 rebate checks by mail to Respondent and her co-conspirator.

13 (b) Between September 2004 and August 2005, more than 2,500 false and  
14 fraudulent prescriptions were issued by Respondent and Robert Hahn, resulting in unearned  
15 rebate checks totaling about \$29,749.60.

#### 16 SECOND CAUSE FOR DISCIPLINE

17 (Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

18 10. Respondent is subject to disciplinary action for unprofessional conduct  
19 under section 4301(f) of the Code in that Respondent committed acts of moral turpitude,  
20 dishonesty, fraud, deceit and corruption during the course of her employment as a pharmacist at  
21 Basha's Pharmacy #19, 3115 S. McClintock Road, Tempe, Arizona. The circumstances are as  
22 set forth in Paragraph 9 hereof, incorporated herein, and concern fraudulent and false prescription  
23 orders processed by Respondent for controlled substances and other medications that included,  
24 but were not limited to, Triazolam .25 mg tablets, Tussionex Suspension, and Phentermine 15  
25 mg capsules. Respondent also offered, delivered, received, or accepted unearned consideration  
26 while engaged in such conduct, and failed to maintain prescription records as required by law.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Out of State Discipline)

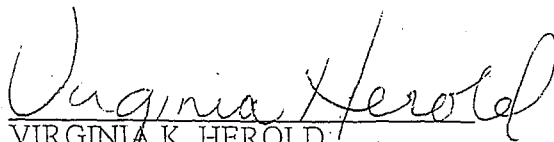
3 11. Respondent is subject to disciplinary action for unprofessional conduct  
4 under section 4301(n) of the Code in that on or about January 25, 2006, the Arizona State Board  
5 of Pharmacy entered its Order No. 05-33-PHR(B) subjecting Respondent's Pharmacist License  
6 No. 12319 issued by the Arizona State Board of Pharmacy to discipline by suspending said  
7 license for a minimum of one year and upon termination of her suspension, placing Respondent  
8 on probation for a period of two years from the final date of suspension. On or about January 24,  
9 2007, the Arizona State Board of Pharmacy terminated suspension of Respondent's Pharmacist  
10 License No. 12319 and imposed two years probation thereafter against Respondent.

11 PRAYER

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

- 14 1. Revoking or suspending Pharmacist License No. RPH 58012 issued to  
15 Michelle H. Mai;
- 16 2. Ordering Michelle H. Mai to pay the Board of Pharmacy the reasonable  
17 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
18 Code section 125.3; and
- 19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: 5/26/09

21  
22   
23 VIRGINIA K. HEROLD  
24 Executive Officer  
25 Board of Pharmacy  
26 Department of Consumer Affairs  
27 State of California  
28 Complainant