

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

In the Matter of the Accusation Against:

Case No. 3491

LONG NGOC DOAN
819 Polaris Dr.
Tustin, CA 92782

Pharmacist License No. RPH 50777

Respondent.

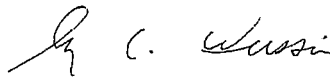
DECISION AND ORDER

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 August 25, 2010.

It is so ORDERED on July 26, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 3491

12 **LONG NGOC DOAN**
13 **819 Polaris Dr.**
Tustin, CA 92782
14 **Pharmacist License No. RPH 50777**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

16
17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
19 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
20 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

21 PARTIES

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

26 2. Respondent Long Ngoc Doan (Respondent) is represented in this proceeding by
27 attorney Donald Brown, whose address is Law Offices of Brown & Brown, 3848 W. Carson St.,
28 Suite 206, Torrance, CA 90503

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

4 RESERVATION

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

9 CONTINGENCY

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

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

22 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
23 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
24 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
25 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
26 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
27 writing executed by an authorized representative of each of the parties.

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1 14. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Pharmacist License No. RPH 50777 issued to Long Ngoc
6 Doan is revoked. However, the revocation is stayed and Respondent is placed on probation for
7 four (4) years on the following terms and conditions.

8 1. **Suspension**

9 As part of probation, respondent is suspended from the practice of pharmacy for 15 (fifteen)
10 days beginning the effective date of this decision.

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

19 Respondent shall not engage in any activity that requires the professional judgment of a
20 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
21 Respondent shall not perform the duties of a pharmacy technician or a designated representative
22 for any entity licensed by the board.

23 Subject to the above restrictions, respondent may continue to own or hold an interest in any
24 licensed premises in which he or she holds an interest at the time this decision becomes effective
25 unless otherwise specified in this order.

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

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1 2. **Obey All Laws**

2 Respondent shall obey all state and federal laws and regulations.

3 Respondent shall report any of the following occurrences to the board, in writing, within
4 seventy-two (72) hours of such occurrence:

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

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

16 3. **Report to the Board**

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

25 4. **Interview with the Board**

26 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
27 with the board or its designee, at such intervals and locations as are determined by the board or its
28 designee. Failure to appear for any scheduled interview without prior notification to board staff,

1 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
2 the period of probation, shall be considered a violation of probation.

3 **5. Cooperate with Board Staff**

4 Respondent shall cooperate with the board's inspection program and with the board's
5 monitoring and investigation of respondent's compliance with the terms and conditions of his
6 probation. Failure to cooperate shall be considered a violation of probation.

7 **6. Continuing Education**

8 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
9 pharmacist as directed by the board or its designee.

10 **7. Notice to Employers**

11 During the period of probation, respondent shall notify all present and prospective
12 employers of the decision in Accusation case number 3491 and the terms, conditions and
13 restrictions imposed on respondent by the decision, as follows:

14 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
15 respondent undertaking any new employment, respondent shall cause his direct supervisor,
16 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
17 tenure of employment) and owner to report to the board in writing acknowledging that the listed
18 individual(s) has/have read the decision in Accusation case number 3491, and terms and
19 conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s)
20 and/or supervisor(s) submit timely acknowledgment(s) to the board.

21 If respondent works for or is employed by or through a pharmacy employment service,
22 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
23 licensed by the board of the terms and conditions of the decision in Accusation case number 3491
24 in advance of the respondent commencing work at each licensed entity. A record of this
25 notification must be provided to the board upon request.

26 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
27 (15) days of respondent undertaking any new employment by or through a pharmacy employment
28 service, respondent shall cause his direct supervisor with the pharmacy employment service to

1 report to the board in writing acknowledging that he has read the decision in Accusation case
2 number 3491 and the terms and conditions imposed thereby. It shall be respondent's
3 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
4 acknowledgment(s) to the board.

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

8 "Employment" within the meaning of this provision shall include any full-time,
9 part-time, temporary, relief or pharmacy management service as a pharmacist or any
10 position for which a pharmacist license is a requirement or criterion for employment,
11 whether the respondent is an employee, independent contractor or volunteer.

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

14 During the period of probation, respondent shall not supervise any intern pharmacist, be the
15 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
16 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
17 unauthorized supervision responsibilities shall be considered a violation of probation.

18 **9. Reimbursement of Board Costs**

19 As a condition precedent to successful completion of probation, respondent shall pay to the
20 board its costs of investigation and prosecution in the amount of \$ 7,982 (seven thousand nine
21 hundred eighty two dollars). Respondent may arrange to make payments as long as the entire
22 amount is paid in full no later than three months prior to the termination of probation.

23 There shall be no deviation from the agreed payment schedule absent prior written approval
24 by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be
25 considered a violation of probation.

26 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
27 reimburse the board its costs of investigation and prosecution.

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1 **10. Probation Monitoring Costs**

2 Respondent shall pay any costs associated with probation monitoring as determined by the
3 board each and every year of probation. Such costs shall be payable to the board on a schedule as
4 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
5 be considered a violation of probation.

6 **11. Status of License**

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

10 If respondent's license expires or is cancelled by operation of law or otherwise at any time
11 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
12 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
13 probation not previously satisfied.

14 **12. License Surrender While on Probation/Suspension**

15 Following the effective date of this decision, should respondent cease practice due to
16 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
17 respondent may tender his license to the board for surrender. The board or its designee shall have
18 the discretion whether to grant the request for surrender or take any other action it deems
19 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
20 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
21 record of discipline and shall become a part of the respondent's license history with the board.

22 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
23 the board within ten (10) days of notification by the board that the surrender is accepted.
24 Respondent may not reapply for any license from the board for three (3) years from the effective
25 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
26 of the date the application for that license is submitted to the board, including any outstanding
27 costs.

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1 **13. Notification of a Change in Name, Residence Address, Mailing Address or**
2 **Employment**

3 Respondent shall notify the board in writing within ten (10) days of any change of
4 employment. Said notification shall include the reasons for leaving, the address of the new
5 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
6 shall further notify the board in writing within ten (10) days of a change in name, residence
7 address, mailing address, or phone number.

8 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
9 phone number(s) shall be considered a violation of probation.

10 **14. Tolling of Probation**

11 Except during periods of suspension, respondent shall, at all times while on probation, be
12 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.
13 Any month during which this minimum is not met shall toll the period of probation, i.e., the
14 period of probation shall be extended by one month for each month during which this minimum is
15 not met. During any such period of tolling of probation, respondent must nonetheless comply
16 with all terms and conditions of probation.

17 Should respondent, regardless of residency, for any reason (including vacation) cease
18 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,
19 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
20 must further notify the board in writing within ten (10) days of the resumption of practice. Any
21 failure to provide such notification(s) shall be considered a violation of probation.

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

25 "Cessation of practice" means any calendar month during which respondent is
26 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and
27 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
28 month during which respondent is practicing as a pharmacist for at least forty (40)

1 hours as a pharmacist as defined by Business and Professions Code section 4000 et
2 seq.

3 **15. Violation of Probation**

4 If respondent has not complied with any term or condition of probation, the board shall
5 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
6 all terms and conditions have been satisfied or the board has taken other action as deemed
7 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
8 to impose the penalty that was stayed.

9 If respondent violates probation in any respect, the board, after giving respondent notice
10 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
11 was stayed (revocation of Pharmacist License No. RPH 50777 issued to Respondent Long Ngoc
12 Doan). Notice and opportunity to be heard are not required for those provisions stating that a
13 violation thereof may lead to automatic termination of the stay and/or revocation of the license.
14 If a petition to revoke probation or an accusation is filed against respondent during probation, the
15 board shall have continuing jurisdiction and the period of probation shall be automatically
16 extended until the petition to revoke probation or accusation is heard and decided.

17 **16. Completion of Probation**

18 Upon written notice by the board or its designee indicating successful completion of
19 probation, respondent's license will be fully restored.

20 **17. Pharmacists Recovery Program (PRP)**

21 Within thirty (30) days of the effective date of this decision, respondent shall contact the
22 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
23 successfully participate in, and complete the treatment contract and any subsequent addendums as
24 recommended and provided by the PRP and as approved by the board or its designee. The costs
25 for PRP participation shall be borne by the respondent.

26 If respondent is currently enrolled in the PRP, said participation is now mandatory and as of
27 the effective date of this decision is no longer considered a self-referral under Business and

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1 Professions Code section 4362(c) (2). Respondent shall successfully participate in and complete
2 his current contract and any subsequent addendums with the PRP.

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

5 Probation shall be automatically extended until respondent successfully completes the PRP.
6 Any person terminated from the PRP program shall be automatically suspended by the board.
7 Respondent may not resume the practice of pharmacy until notified by the board in writing.

8 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
9 licensed practitioner as part of a documented medical treatment shall result in the automatic
10 suspension of practice by respondent and shall be considered a violation of probation.

11 Respondent may not resume the practice of pharmacy until notified by the board in writing.

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

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

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

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

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1 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
2 timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid
3 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

4 18. Random Drug Screening

5 Respondent, at his own expense, shall participate in random testing, including but not
6 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
7 screening program as directed by the board or its designee. Respondent may be required to
8 participate in testing for the entire probation period and the frequency of testing will be
9 determined by the board or its designee. At all times, respondent shall fully cooperate with the
10 board or its designee, and shall, when directed, submit to such tests and samples for the detection
11 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
12 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
13 of probation. Upon request of the board or its designee, respondent shall provide documentation
14 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
15 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
16 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
17 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
18 shall be considered a violation of probation and shall result in the automatic suspension of
19 practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until
20 notified by the board in writing.

21 During suspension, respondent shall not enter any pharmacy area or any portion of the
22 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
23 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
24 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
25 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
26 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
27 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
28 and controlled substances. Respondent shall not resume practice until notified by the board.

1 During suspension, respondent shall not engage in any activity that requires the
2 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
3 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
4 designated representative for any entity licensed by the board.

5 Subject to the above restrictions, respondent may continue to own or hold an interest in any
6 licensed premises in which he holds an interest at the time this decision becomes effective unless
7 otherwise specified in this order.

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

9 **19. Community Services Program**

10 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
11 board or its designee, for prior approval, a community service program in which respondent shall
12 provide free health-care related services on a regular basis to a community or charitable facility or
13 agency for at total of 100 (one hundred) hours during the first year of probation. Within thirty
14 (30) days of board approval thereof, respondent shall submit documentation to the board
15 demonstrating commencement of the community service program. A record of this notification
16 must be provided to the board upon request. Respondent shall report on progress with the
17 community service program in the quarterly reports. Failure to timely submit, commence, or
18 comply with the program shall be considered a violation of probation.

19 **20. Supervised Practice**

20 During the period of probation, respondent shall practice only under the supervision of a
21 licensed pharmacist not on probation with the board. Upon and after the effective date of this
22 decision, respondent shall not practice pharmacy and his license shall be automatically suspended
23 until a supervisor is approved by the board or its designee. The supervision shall be, as required
24 by the board or its designee, either:

25 Continuous - At least 75% of a work week

26 Substantial - At least 50% of a work week

27 Partial - At least 25% of a work week

28 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

1 Within thirty (30) days of the effective date of this decision, respondent shall have his
2 supervisor submit notification to the board in writing stating that the supervisor has read the
3 decision in Accusation case number 3491 and is familiar with the required level of supervision as
4 determined by the board or its designee. It shall be the respondent's responsibility to ensure that
5 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
6 the board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
7 acknowledgements to the board shall be considered a violation of probation.

8 If respondent changes employment, it shall be the respondent's responsibility to ensure that
9 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
10 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
11 commences, submit notification to the board in writing stating the direct supervisor and
12 pharmacist-in-charge have read the decision in Accusation case number 3491 and is familiar with
13 the level of supervision as determined by the board. Respondent shall not practice pharmacy and
14 his license shall be automatically suspended until the board or its designee approves a new
15 supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
16 acknowledgements to the board shall be considered a violation of probation.

17 Within ten (10) days of leaving employment, respondent shall notify the board in writing.

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

26 During suspension, respondent shall not engage in any activity that requires the
27 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the

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1 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
2 designated representative for any entity licensed by the board.

3 Subject to the above restrictions, respondent may continue to own or hold an interest in any
4 licensed premises in which he holds an interest at the time this decision becomes effective unless
5 otherwise specified in this order.

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

7 **21. No Ownership of Licensed Premises**

8 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
9 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
10 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
11 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
12 days following the effective date of this decision and shall immediately thereafter provide written
13 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
14 documentation thereof shall be considered a violation of probation.

15 **22. Ethics Course**

16 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
17 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
18 Failure to initiate the course during the first year of probation, and complete it within the second
19 year of probation, is a violation of probation.

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1 Respondent shall submit a certificate of completion to the board or its designee within five
2 days after completing the course.

3 ACCEPTANCE

4 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
5 discussed it with my attorney, Donald Brown. I understand the stipulation and the effect it will
6 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order
7 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
8 Board of Pharmacy.

9
10 DATED: 4/9/10 *Long Ngoc Doan*
11 LONG NGOC DOAN
12 Respondent

13 I have read and fully discussed with Respondent Long Ngoc Doan the terms and conditions
14 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
15 its form and content.

16 DATED: APR - 5 2010 *[Signature]*
17 Donald Brown
18 Attorney for Respondent

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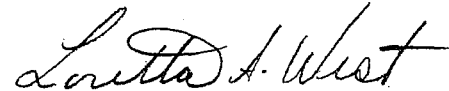
1 ENDORSEMENT

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

4 Dated: 4/27/2010

5 Respectfully Submitted,

6 EDMUND G. BROWN JR.
7 Attorney General of California
8 LINDA K. SCHNEIDER
9 Supervising Deputy Attorney General

10 

11 LORETTA A. WEST
12 Deputy Attorney General
13 *Attorneys for Complainant*

14 SD2009804842

Exhibit A

Accusation No. 3491

1 EDMUND G. BROWN JR.
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16 **Pharmacist License No. RPII 50777**
17 Respondent.

Case No. 3491
ACCUSATION

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
23 2. On or about April 1, 1999, the Board of Pharmacy issued Pharmacist License Number
24 RPII 50777 to Long Ngoc Doan (Respondent). The Pharmacist License was in full force and
25 effect at all times relevant to the charges brought herein and will expire on October 31, 2010.
26 unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 4300 of the Code states:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

STATUTORY PROVISIONS

6. Section 4301 of the Code states:

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

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of

1 relations as a licensee or otherwise, and whether the act is a felony or
2 misdemeanor or not.

3 (h) The administering to oneself, of any controlled substance, or the use
4 of any dangerous drug or of alcoholic beverages to the extent or in a manner as
5 to be dangerous or injurious to oneself, to a person holding a license under this
6 chapter, or to any other person or to the public, or to the extent that the use
7 impairs the ability of the person to conduct with safety to the public the practice
8 authorized by the license.

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

11 (l) The conviction of a crime substantially related to the qualifications,
12 functions, and duties of a licensee under this chapter. The record of conviction
13 of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the
14 United States Code regulating controlled substances or of a violation of the
15 statutes of this state regulating controlled substances or dangerous drugs shall
16 be conclusive evidence of unprofessional conduct. In all other cases, the record
17 of conviction shall be conclusive evidence only of the fact that the conviction
18 occurred. The board may inquire into the circumstances surrounding the
19 commission of the crime, in order to fix the degree of discipline or, in the case
20 of a conviction not involving controlled substances or dangerous drugs, to
21 determine if the conviction is of an offense substantially related to the
22 qualifications, functions, and duties of a licensee under this chapter. A plea or
23 verdict of guilty or a conviction following a plea of nolo contendere is deemed
24 to be a conviction within the meaning of this provision. The board may take
25 action when the time for appeal has elapsed, or the judgment of conviction has
26 been affirmed on appeal or when an order granting probation is made
27 suspending the imposition of sentence, irrespective of a subsequent order under
28 Section 1203.4 of the Penal Code allowing the person to withdraw his or her
plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
guilty, or dismissing the accusation, information, or indictment.

7. Section 4060 of the Code states:

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, or a physician
assistant pursuant to Section 3502.1, or 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

1 Section 4052. This section shall not apply to the possession of any controlled
2 substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician,
3 podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
4 nurse-midwife, nurse practitioner, or physician assistant, when in stock in
5 containers correctly labeled with the name and address of the supplier or
6 producer.

7 Nothing in this section authorizes a certified nurse-midwife, a nurse
8 practitioner, a physician assistant, or a naturopathic doctor, to order his or her
9 own stock of dangerous drugs and devices.

10 8. Section 4022 of the Code states

11 Dangerous drug" or "dangerous device" means any drug or device unsafe
12 for self-use in humans or animals, and includes the following:

13 (a) Any drug that bears the legend: "Caution: federal law prohibits
14 dispensing without prescription," "Rx only," or words of similar import.

15 (b) Any device that bears the statement: "Caution: federal law restricts
16 this device to sale by or on the order of a _____," "Rx only," or words of
17 similar import, the blank to be filled in with the designation of the practitioner
18 licensed to use or order use of the device.

19 (c) Any other drug or device that by federal or state law can be lawfully
20 dispensed only on prescription or furnished pursuant to Section 4006.

21 9. Section 490 of the Code states:

22 (a) In addition to any other action that a board is permitted to take against
23 a licensee, a board may suspend or revoke a license on the ground that the
24 licensee has been convicted of a crime, if the crime is substantially related to
25 the qualifications, functions, or duties of the business or profession for which
26 the license was issued.

27 (b) Notwithstanding any other provision of law, a board may exercise any
28 authority to discipline a licensee for conviction of a crime that is independent of
the authority granted under subdivision (a) only if the crime is substantially
related to the qualifications, functions, or duties of the business or profession
for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or
verdict of guilty or a conviction following a plea of nolo contendere. Any
action that a board is permitted to take following the establishment of a
conviction may be taken when the time for appeal has elapsed, or the judgment
of conviction has been affirmed on appeal, or when an order granting probation
is made suspending the imposition of sentence, irrespective of a subsequent
order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this
section has been made unclear by the holding in *Petropoulos v. Department of*

1 *Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has
2 placed a significant number of statutes and regulations in question, resulting in
3 potential harm to the consumers of California from licensees who have been
4 convicted of crimes. Therefore, the Legislature finds and declares that this
5 section establishes an independent basis for a board to impose discipline upon a
6 licensee, and that the amendments to this section made by Senate Bill 797 of
7 the 2007 -08 Regular Session do not constitute a change to, but rather are
8 declaratory of, existing law.

9
10 10. Section 492 of the Code states:

11 Notwithstanding any other provision of law, successful completion of any
12 diversion program under the Penal Code, or successful completion of an
13 alcohol and drug problem assessment program under Article 5 (commencing
14 with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall
15 not prohibit any agency established under Division 2 ([Healing Arts]
16 commencing with Section 500) of this code, or any initiative act referred to in
17 that division, from taking disciplinary action against a licensee or from denying
18 a license for professional misconduct, notwithstanding that evidence of that
19 misconduct may be recorded in a record pertaining to an arrest.

20 This section shall not be construed to apply to any drug diversion
21 program operated by any agency established under Division 2 (commencing
22 with Section 500) of this code, or any initiative act referred to in that division.

23 REGULATORY PROVISIONS

24 11. California Code of Regulations, title 16, section 1770, states:

25 For the purpose of denial, suspension, or revocation of a personal or
26 facility license pursuant to Division 1.5 (commencing with Section 475) of the
27 Business and Professions Code, a crime or act shall be considered substantially
28 related to the qualifications, functions or duties of a licensee or registrant if to a
substantial degree it evidences present or potential unfitness of a licensee or
registrant to perform the functions authorized by his license or registration in a
manner consistent with the public health, safety, or welfare.

12 12. California Code of Regulations, title 16, section 1769, states, in pertinent part:

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(1) Nature and severity of the act(s) or offense(s).

1 (2) Total criminal record.

2 (3) The time that has elapsed since commission of the act(s) or offense(s).

3 (4) Whether the licensee has complied with all terms of parole, probation,
4 restitution or any other sanctions lawfully imposed against the licensee.

5 (5) Evidence, if any, of rehabilitation submitted by the licensee.

6 COST RECOVERY

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

11 DRUGS

12 14. Hydroxyzine, is a dangerous drug pursuant to Business and Professions Code
13 section 4022.

14 15. Naproxen sodium, is a dangerous drug pursuant to Business and Professions Code
15 section 4022.

16 16. Tramadol is a centrally acting analgesic, and is a dangerous drug pursuant to
17 Business and Professions Code section 4022.

18 17. Diphenoxylate/Atropine is an opioid and Schedule V controlled substance pursuant
19 to Health and Safety Code section 11058 (c) (4).

20 FACTS

21 18. In 2008, Respondent was employed as a pharmacist, graveyard shift, at Walgreens
22 Pharmacy #5972 in Garden Grove California. Surveillance cameras were installed in the
23 pharmacy on or about March 31, 2008. On April 5, 2008, the surveillance cameras recorded
24 Respondent as he removed an unknown quantity of Naproxen from a stock bottle and placed the
25 tablets into the pocket of his pharmacist smock. On April 7, 2008, the surveillance cameras
26 recorded Respondent as he took two stock bottles of Hydroxyzine off of the pharmacy shelf,
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1 poured some of the contents of one container into his hand, and then poured it from his hand into
2 the other container. Respondent placed one of the stock bottles of Hydroxyzine into a personally
3 owned bag that he often brings to work, left the building with the bag, and returned to the
4 pharmacy a few minutes later without the bag. On April 7, 2008, the surveillance cameras
5 recorded Respondent as he removed a cartridge containing an unknown quantity of Tramadol
6 from the pharmacy stock shelf, placed the cartridge into a plastic bag, and then walked away out
7 of sight. On April 12, 2008, the surveillance camera recorded Respondent as he removed an
8 unknown quantity of Diphenoxylate/ Atropine from its pharmacy stock container and never
9 returned anything back into the container.

10 19. On April 17, 2008, Respondent admitted to the pharmacy's loss prevention officer
11 that he had taken some prescription medications from the pharmacy for self-use, including two
12 tablets of Diphenoxylate/Atropine, one or two tablets of Hydroxyzine, and one or two tablets of
13 Naproxyn. Respondent also admitted that he did not have a prescription for any of the
14 medications.

15 20. On April 17, 2008, the pharmacy completed an Item Movement Report which showed
16 discrepancies in the expected on-hand quantities and the actual quantities in stock regarding the
17 following four drugs: Diphenoxylate/Atropine (14 tablets less in stock than expected), Tramadol
18 50 mg (99 tablets less in stock than expected), Hydroxyzine Pamoate 25 mg (13 capsules less in
19 stock than expected), and Naproxen 500 mg (241 tablets less in stock than expected). The
20 pharmacy then completed a DEA Report of Theft or Loss of Controlled Substances, and notified
21 the local police department.

22 21. On April 17, 2008, a Garden Grove police Officer arrived at the Walgreens Pharmacy
23 #5927 and escorted Respondent out of the store. The police officer completed a crime incident
24 report and forwarded it to the Orange County District Attorney's Office for review.

25 22. On September 5, 2008, in an Orange County Superior Court case entitled *People of*
26 *the State of California v Long Ngoc Doan*, case number 08WM08889, the Orange County
27 District Attorney filed the following criminal charges against Respondent: two separate counts of
28 violating Penal Code sections 666, 484 (a), and 488 (petty theft with prior theft conviction), on

1 April 7, 2008, and on April 12, 2008, respectively; and, two separate counts of violating Business
2 and Professions Code section 4060 (unlawful possession of controlled substance), on April 7,
3 2008, and on April 12, 2008, respectively. On December 23, 2008, Respondent was convicted on
4 his plea of guilty of violating Penal Code section 666, 484 (a), and 488 (petty theft with prior
5 theft conviction) on April 7, 2008, and all other pending criminal charges were dismissed.

6 23. On December 23, 2008, the court sentenced Respondent to three years informal
7 probation under several terms and conditions, including the following: violate no law, submit to
8 warrantless searches, use true name and date of birth at all times, disclose probation to law
9 enforcement, eighty (80) hours community services, and pay various fines and fess. Respondent
10 is scheduled to complete his probation on December 22, 2011.

11 FIRST CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct -- Dishonesty)

13 24. Respondent's pharmacist license is subject to disciplinary action under Code section
14 4301, subdivision (f) in that Respondent engaged in conduct involving moral turpitude,
15 dishonesty, fraud, deceit, or corruption in that on dates unknown and known, including April 5, 7,
16 and 12, 2008, while working as a pharmacist at Walgreens Pharmacy #05972, Respondent stole
17 unknown quantities of the dangerous drugs Hydroxyzine Pamoate, Naproxen, and Tramadol, and
18 stole unknown quantities of the controlled substance Diphenoxylate/Atropinethat, for self-use
19 without a prescription, as described above at paragraphs 18 through 23, which are incorporated
20 herein by reference.

21 SECOND CAUSE FOR DISCIPLINE

22 (Furnishing a Dangerous Drug Without a Prescription)

23 25. Respondent's pharmacist license is subject to disciplinary action under Business and
24 Professions Code section 4301 (j) for violation of section 4059 in that on dates known and
25 unknown, Respondent furnished unknown quantities of the dangerous drugs Hydroxizine
26 Pamoate, and Naproxen to himself for self-use when he did not have a prescription for said
27 dangerous drugs, as described above at paragraphs 18 through 23, which are incorporated herein
28 by reference.

1 THIRD CAUSE FOR DISCIPLINE

2 (Furnishing a Controlled Substance Without a Prescription)

3 26. Respondent's pharmacist license is subject to disciplinary action under Business and
4 Professions Code section 4301 (j) for violation of section 4060 in that on dates known and
5 unknown, Respondent furnished unknown quantities of the controlled substance
6 Diphenoxylate/Atropine to himself for self-use when he did not have a prescription for said
7 controlled substance, as described above at paragraphs 18 through 23, which are incorporated
8 herein by reference.

9 FOURTH CAUSE FOR DISCIPLINE

10 (Unlawful Possessions of Controlled Substance)

11 27. Respondent's pharmacist license is subject to disciplinary action under Business
12 and Professions Code section 4301 (j) for violation of section 4060 and health and Safety Code
13 section 11170, in that on dates known and unknown Respondent unlawfully possessed the
14 controlled substance Diphenoxylate/Atropine, without a valid prescription, as described above at
15 paragraphs 18 through 23, which are incorporated herein by reference.

16 FIFTH CAUSE FOR DISCIPLINE

17 (December 23, 2008, Conviction for Theft of Drugs from Pharmacy on April 7, 2008)

18 28. Respondent's pharmacist license is subject to disciplinary action under Code sections
19 490 and 4301, subdivision (l), in that on December 23, 2008, Respondent was convicted of
20 violating Penal Code sections 666, 484 (a), and 488 (theft with prior theft conviction), a
21 misdemeanor, as described above in paragraphs 18 through 23 which are incorporated herein by
22 reference.

23 29. Respondent's prior theft conviction occurred on September 9, 1994, in an Orange
24 County Superior Court case entitled *People of the State of California v Long Ngoc Doan*, wherein
25 Respondent was convicted on his plea of guilty of violating Penal Code section 288 (theft). The
26 facts and circumstances underlying the conviction are that Respondent, while employed at a
27 department store, stole a comforter set and three shirts from his employer on December 7, 1993.

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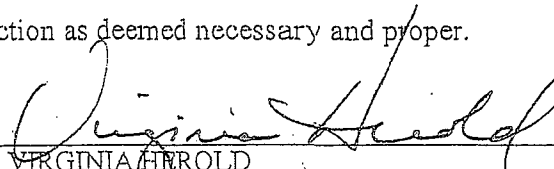
1 Respondent was sentenced to three years probation, eighty (80) hours of community service, and
2 fines. Respondent successfully completed his probation.

3 PRAYER

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

- 6 1. Revoking or suspending Pharmacist License Number RPH 50777, issued to Long
7 Ngoc Doan Long Ngoc Doan.
- 8 2. Ordering Long Ngoc Doan to pay the Board of Pharmacy the reasonable costs of the
9 investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3;
- 11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: 1/4/10


13 VIRGINIA HEROLD
14 Executive Officer
15 Board of Pharmacy
16 Department of Consumer Affairs
17 State of California
18 Complainant

16 SD2009804842

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