

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

In the Matter of the Accusation Against:

Case No. 3593

**NM TH PHARMACEUTICALS INC.
dba HOLT PHARMACY;
GIANG L. HA, President and Pharmacist-in-
Charge**

1101 E. Holt Ave., #F
Pomona, CA 91767

Pharmacy Permit No. PHY 49084

and

GIANG L. HA
761 Guadalupe Dr.
Upland, CA 91786

Pharmacist License No. RPH 57897

Respondent.

DECISION AND ORDER

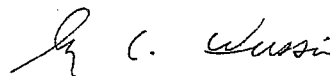
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on August 19, 2011.

It is so ORDERED July 20, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

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9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

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OAH No. L-2010121030

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13 **dba HOLT PHARMACY;**
14 **GIANG L. HA, President and Pharmacist-**
in-Charge
1101 E. Holt Ave., #F
15 Pomona, CA 91767

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

16 **Pharmacy Permit License No. PHY 49084**
Respondent,

17 **AND**

18 **GIANG L. HA**
761 Guadalupe Dr.
19 Upland, CA 91786

20 **Pharmacist License No. RPH 57897**
Respondent.
21

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Virginia K. Herold ("Complainant") is the Executive Officer of the California State
26 Board of Pharmacy. She brings this action solely in her official capacity and is represented in this
27 matter by Kamala D. Harris, Attorney General of the State of California, by Armando Zambrano,
28 Deputy Attorney General.

2. NM TH Pharmaceuticals Inc. dba Holt Pharmacy and Giang L. Ha ("Respondents") are both represented in this proceeding by defense attorney Michael J. Khouri, whose address is: Law Offices of Michael J. Khouri, 4040 Barranca Pkwy., Suite 200, Irvine, California 92604.

3. On or about August 4, 2008, the California State Board of Pharmacy issued Pharmacy Permit License No. PHY 49084 to NM TH Pharmaceuticals Inc. dba Holt Pharmacy ("Respondent NM TH Pharmaceuticals Inc."). The Pharmacy Permit License was in full force and effect at all times relevant to the charges brought in Accusation No. 3593 and will expire on August 1, 2011, unless renewed.

4. On or about November 23, 2005, the California State Board of Pharmacy issued Pharmacist License No. RPH 57897 to Giang L. Ha ("Respondent Giang L. Ha"). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 3593 and will expire on May 31, 2011, unless renewed.

5. Respondent Giang L. Ha is and has been the Pharmacist-in-Charge for NM TH Pharmaceuticals Inc. dba Holt Pharmacy since August 4, 2008.

JURISDICTION

6. Accusation No. 3593 was filed before the California State Board of Pharmacy, and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on December 14, 2010. Respondents timely filed a Notice of Defense contesting the Accusation. A copy of Accusation No. 3593 is attached as Exhibit "A" and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondents have carefully read and understand the charges and allegations in Accusation No. 3593. Respondents have fully discussed with their counsel the allegations described in Accusation No. 3593.

8. Respondents have carefully read and understand this Stipulated Settlement and Disciplinary Order. Respondents have fully discussed the effects of this Stipulated Settlement

1 and Disciplinary Order with their counsel.

2 9. Respondents are fully aware of their legal rights in this matter, including the right to a
3 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
4 their own expense; the right to confront and cross-examine the witnesses against them; the right
5 to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to
6 compel the attendance of witnesses and the production of documents; the right to reconsideration
7 and court review of an adverse decision; and all other rights accorded by the California
8 Administrative Procedure Act and other applicable laws.

9 10. Respondent NM TH Pharmaceuticals Inc. dba Holt Pharmacy voluntarily, knowingly,
10 and intelligently waives and gives up each and every right set forth above.

11 11. Respondent Giang L. Ha voluntarily, knowingly, and intelligently waives and gives
12 up each and every right set forth above.

13 14 CULPABILITY

15 12. Respondent NM TH Pharmaceuticals Inc. dba Holt Pharmacy and Respondent Giang
16 L. Ha admit the truth of each and every charge and allegation in Accusation No. 3593.

17 13. Respondent NM TH Pharmaceuticals Inc. dba Holt Pharmacy agrees its Pharmacy
18 Permit License is subject to discipline.

19 14. Respondent Giang L. Ha agrees his Pharmacist License is subject to discipline.

20 15. Respondents agree to be bound by the discipline and probationary terms imposed by
21 the Board of Pharmacy as set forth in the Disciplinary Order below.

22 23 CONTINGENCY

24 16. This Stipulated Settlement and Disciplinary Order shall be subject to approval by the
25 Board of Pharmacy. Respondents understand and agree that counsel for Complainant and the
26 staff of the Board of Pharmacy may communicate directly with the Board of Pharmacy regarding
27 this stipulation and settlement, without notice to Respondents or participation by Respondents or
28 their counsel. By signing the stipulation, Respondents understand and agree that they may not

1 withdraw the agreement or seek to rescind the stipulation prior to the time the Board of Pharmacy
2 considers and acts upon it. If the Board of Pharmacy fails to adopt this stipulation as its Decision
3 and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except
4 for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board
5 of Pharmacy shall not be disqualified from further action by having considered this matter.

6 17. The parties understand and agree that a facsimile copy of this stipulation, including
7 facsimile signatures thereto, shall have the same force and effect as the original.

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

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

17
18 **DISCIPLINARY ORDER**

19 IT IS HEREBY ORDERED that Pharmacy Permit License No. PHY 49084 issued to
20 Respondent NM TH Pharmaceuticals Inc. dba Holt Pharmacy is revoked and Pharmacist License
21 No. RPH 57897 issued to Respondent Giang L. Ha is also revoked. However, both revocations
22 are stayed and Respondents are placed on probation for five (5) years on the following terms and
23 conditions:

24 **Suspension of License - Respondent Giang L. Ha** Pharmacist License No. RPH 57897
25 issued to Respondent Giang L. Ha is suspended from the practice of pharmacy for fourteen (14)
26 days beginning on the effective date of this decision.

27 During suspension, Respondent Giang L. Ha shall not enter any pharmacy area or any
28 portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other

1 distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous
2 drugs and devices or controlled substances are maintained. Respondent shall not practice
3 pharmacy nor do any act involving drug selection, selection of stock, manufacturing,
4 compounding, dispensing or patient consultation; nor shall Respondent manage, administer, or be
5 a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing
6 or dispensing of dangerous drugs and devices or controlled substances.

7 Respondent Giang L. Ha shall not engage in any activity that requires the professional
8 judgment of a pharmacist. Respondent Giang L. Ha shall not direct or control any aspect of the
9 practice of pharmacy. Respondent Giang L. Ha shall not perform the duties of a pharmacy
10 technician or a designated representative for any entity licensed by the Board.

11 Subject to the above restrictions, the Respondent Giang L. Ha may continue to own or hold
12 an interest in any licensed premises in which he holds an interest at the time this decision
13 becomes effective unless otherwise specified in this Disciplinary Order. Failure to comply with
14 the terms of the suspension shall be considered a violation of probation.

15 16 **TERMS APPLICABLE TO BOTH RESPONDENTS**

17 **1. Obey All Laws** Respondents shall obey all state and federal laws and regulations.
18 Respondents shall report any of the following occurrences to the Board, in writing, within
19 seventy-two (72) hours of such occurrence:

- 20 • an arrest or issuance of a criminal complaint for violation of any provision of
21 the Pharmacy Law, state and federal food and drug laws, or state and federal
controlled substances laws
- 22 • a plea of guilty or nolo contendere in any state or federal criminal proceeding
23 to any criminal complaint, information or indictment
- 24 • a conviction of any crime
- 25 • discipline, citation, or other administrative action filed by any state or federal
26 agency which involves either of Respondents' licenses or which is related to
the practice of pharmacy or the manufacturing, obtaining, handling,
distributing, billing, or charging for any drug, device or controlled substance.

27 Failure to timely report such occurrence(s) shall be considered a violation of probation.
28

1 **2. Report to the Board** Respondents shall report to the board quarterly, on a schedule
2 as directed by the Board of Pharmacy or its designee. The report shall be made either in person
3 or in writing, as directed. Among other requirements, the Respondents shall state in each report
4 under penalty of perjury whether there has been compliance with all the terms and conditions of
5 probation. Failure to submit timely reports in a form as directed shall be considered a violation of
6 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
7 total period of probation. Moreover, if the final probation report is not made as directed, the
8 probation shall be automatically extended until such time as the final report is made and accepted
9 by the Board of Pharmacy.

10 **3. Interview with the Board** Upon receipt of reasonable prior notice, Respondents
11 shall appear in person for interviews with the Board of Pharmacy or its designee, at such intervals
12 and locations as are determined by the Board of Pharmacy or its designee. Failure to appear for
13 any scheduled interview without prior notification to the Board of Pharmacy staff, or failure to
14 appear for two (2) or more scheduled interviews with the Board of Pharmacy or its designee
15 during the period of probation, shall be considered a violation of probation. The owner or officer
16 of Respondent NM TH Pharmaceuticals Inc. dba Holt Pharmacy shall make the appearance on
17 behalf of Respondent NM TH Pharmaceuticals Inc. dba Holt Pharmacy.

18 **4. Cooperate with Board Staff** Respondents shall cooperate with the Board of
19 Pharmacy's inspection program and with the Board of Pharmacy's monitoring and investigation of
20 Respondents' compliance with the terms and conditions of their probation. Failure to cooperate
21 shall be considered a violation of probation.

22 **5. Reimburse Board Costs** As a condition precedent to the successful completion of
23 probation, Respondents shall pay the sum of Twelve Thousand Seven Hundred Fourteen Dollars
24 (\$12,714.00) to the Board of Pharmacy as reimbursement for the costs of investigation and
25 prosecution of this case. Respondent NM TH Pharmaceuticals Inc. dba Holt Pharmacy and
26 Respondent Giang L. Ha are jointly and severally liable for the entire amount of the investigation
27 and prosecution costs. Respondents shall pay the entire amount on or before the effective date of
28 this decision or the Respondent shall request a proposed payment schedule from the Board of

1 Pharmacy or its designee, within ten (10) days of the effective date of this decision. There shall
2 be no deviation from the payment schedule absent prior written approval by the Board of
3 Pharmacy or its designee. Failure to pay the costs of the investigation and prosecution by the
4 deadline as directed by the Board of Pharmacy shall be considered a violation of probation. The
5 filing of bankruptcy by either Respondent shall not relieve the Respondents of their responsibility
6 to reimburse the Board of Pharmacy its costs of investigation and prosecution.

7 **6. Probation Monitoring Costs** Respondents shall pay all costs associated with
8 probation monitoring as determined by the Board of Pharmacy for each and every year of
9 probation. Such costs shall be payable to the Board of Pharmacy on a schedule as directed by the
10 Board of Pharmacy or its designee. Failure to pay such costs by the deadline as directed shall be
11 considered a violation of probation.

12 **7. Violation of Probation** If the Respondent has not complied with any term or
13 condition of probation, the Board of Pharmacy shall have continuing jurisdiction over
14 Respondent, and probation shall automatically be extended, until all terms and conditions have
15 been satisfied or the Board of Pharmacy has taken other action as deemed appropriate to treat the
16 failure to comply as a violation of probation, to terminate probation, and to impose the penalty
17 that was stayed.

18 If the Respondent violates probation in any respect, the Board of Pharmacy, after giving
19 Respondent notice and an opportunity to be heard, may revoke probation and carry out the
20 disciplinary order that was stayed. Notice and an opportunity to be heard are not required for
21 those provisions stating that a violation thereof may lead to automatic termination of the stay
22 and/or revocation of the license. If a petition to revoke probation or an accusation is filed against
23 the Respondent during probation, the Board of Pharmacy shall have continuing jurisdiction and
24 the period of probation shall be automatically extended until the petition to revoke probation or
25 accusation is heard and decided.

26 **8. Completion of Probation** Upon written notice by the Board of Pharmacy or its
27 designee indicating successful completion of probation, Respondent's license will be fully
28 restored.

ADDITIONAL TERMS APPLICABLE TO
RESPONDENT GIANG L. HA

9. **Continuing Education** Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board of Pharmacy or its designee.

10. **Notice to Employers** During the period of probation, Respondent shall notify all present and prospective employers of the decision in case number 3593 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment, Respondent shall cause his or her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the Board of Pharmacy in writing acknowledging that the listed individual(s) has/have read the decision in case number 3593, and terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board of Pharmacy.

If Respondent works for or is employed by or through a pharmacy employment service, respondent must notify his or her direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions of the decision in case number 3593 in advance of the Respondent commencing work at each licensed entity. A record of this notification must be provided to the Board of Pharmacy upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he or she has read the decision in case number 3593 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board of Pharmacy.

Failure to comply with these conditions shall be considered a violation of probation. "Employment" within the meaning of this provision shall include any full-time, part-time,

1 temporary, relief or pharmacy management service as a pharmacist or any position for which a
2 pharmacist license is a requirement or criterion for employment, whether the respondent is an
3 employee, independent contractor or volunteer.

4 **11. Consultant Required for Owner or Pharmacist-In-Charge** During the period of
5 probation, Respondent shall not supervise any intern pharmacist or serve as a consultant to any
6 entity licensed by the board. Respondent may be a pharmacist-in-charge. However, if during the
7 period of probation Respondent serves as a pharmacist-in-charge, Respondent shall retain an
8 independent consultant at his or her own expense who shall be responsible for reviewing
9 pharmacy operations on a monthly basis for compliance by Respondent with state and federal
10 laws and regulations governing the practice of pharmacy and for compliance by Respondent with
11 the obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and
12 not on probation with the Board of Pharmacy and whose name shall be submitted to the Board of
13 Pharmacy or its designee, for prior approval, within thirty (30) days of the effective date of this
14 decision. Respondent shall not be a pharmacist-in-charge at more than one pharmacy or at any
15 pharmacy of which he is not the sole owner. Failure to timely retain, seek approval of, or ensure
16 timely reporting by the consultant shall be considered a violation of probation.

17 **12. Status of License** Respondent shall maintain an active, current license with the
18 Board of Pharmacy, including any period during which suspension or probation is tolled. Failure
19 to maintain an active, current license shall be considered a violation of probation.

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

24 **13. License Surrender While on Probation/Suspension** Following the effective date of
25 this decision, should Respondent cease practice due to retirement or health, or be otherwise
26 unable to satisfy the terms and conditions of probation, Respondent may tender his license to the
27 Board of Pharmacy for surrender. The board or its designee shall have the discretion whether to
28 grant the request for surrender or take any other action it deems appropriate and reasonable.

1 Upon formal acceptance of the surrender of the license, respondent will no longer be subject to
2 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
3 become a part of the Respondent's license history with the Board of Pharmacy.

4 Upon acceptance of the surrender, Respondent shall relinquish his or her pocket and wall
5 license to the Board of Pharmacy within ten (10) days of notification by the Board of Pharmacy
6 that the surrender is accepted. Respondent may not reapply for any license from the board for
7 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
8 applicable to the license sought as of the date the application for that license is submitted to the
9 board, including any outstanding costs.

10 **14. Notification of a Change in Employment, Name, Address, or Telephone**

11 Respondent shall notify the board in writing within ten (10) days of any change of employment.
12 Said notification shall include the reasons for leaving, the address of the new employer, the name
13 of the supervisor and owner, and the work schedule if known. Respondent shall further notify the
14 board in writing within ten (10) days of a change in name, residence address, mailing address, or
15 telephone number.

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

18 **15. Tolling of Probation** Except during periods of suspension, Respondent shall be
19 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.
20 Any month during which this minimum is not met shall toll the period of probation, i.e., the
21 period of probation shall be extended by one month for each month during which this minimum is
22 not met. During any such period of tolling of probation, Respondent must nonetheless comply
23 with all terms and conditions of probation.

24 Should Respondent, regardless of residency, for any reason (including vacation) cease
25 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,
26 Respondent shall notify the Board of Pharmacy in writing within ten (10) days of the cessation of
27 practice, and shall further notify the Board of Pharmacy in writing within ten (10) days of the
28

1 resumption of practice. Any failure to provide such notification(s) shall be considered a violation
2 of probation.

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

6 "Cessation of practice" means any calendar month during which Respondent is not
7 practicing as a pharmacist for at least forty (40) hours, as defined by Business and Professions
8 Code section 4000 et seq . "Resumption of practice" means any calendar month during which
9 Respondent practices as a pharmacist for at least forty (40) hours as a pharmacist as defined by
10 Business and Professions Code section 4000 et seq.

11 **16. Community Services Program** Within sixty (60) days of the effective date of this
12 decision, Respondent shall submit to the Board of Pharmacy or its designee, for prior approval, a
13 community service program in which Respondent shall provide at least two hundred fifty (250)
14 hours of free health-care related services to a community or charitable facility or agency. The
15 Respondent shall provide at least fifty (50) hours of community service per year for the first five
16 years of probation. Within thirty (30) days of Board of Pharmacy approval thereof, the
17 Respondent shall submit documentation to the Board of Pharmacy demonstrating commencement
18 of the community service program. A record of this notification must be provided to the Board of
19 Pharmacy upon request. Respondent shall report on progress with the community service
20 program in the quarterly reports. Failure to timely submit, commence, or comply with the
21 program shall be considered a violation of probation.

22 **17. Remedial Education** Within sixty (60) days of the effective date of this decision,
23 Respondent shall submit to the Board of Pharmacy or its designee, for prior approval, an
24 appropriate program of remedial education related to the grounds for discipline described in the
25 Accusation for Case No. 3593. The program of remedial education shall consist of at least 50
26 hours, which shall be completed at respondent's own expense. The Respondent shall complete at
27 least ten (10) hours per year during the first five years of probation. All remedial education shall
28 be in addition to, and shall not be credited toward, continuing education (CE) courses used for

1 license renewal purposes.

2 Failure to timely submit or complete the approved remedial education shall be
3 considered a violation of probation. The period of probation will be automatically extended until
4 such remedial education is successfully completed and written proof, in a form acceptable to the
5 board, is provided to the board or its designee.

6 Following the completion of each course, the board or its designee may require the
7 respondent, at his or her own expense, to take an approved examination to test the respondent's
8 knowledge of the course. If the respondent does not achieve a passing score on the examination,
9 this failure shall be considered a violation of probation. Any such examination failure shall
10 require respondent to take another course approved by the board in the same subject area.

11 **18. No Additional Ownership of Licensed Premises** Respondent shall not acquire any
12 new ownership, legal or beneficial interest nor serve as a manager, administrator, member,
13 officer, director, trustee, associate, or partner of any additional business, firm, partnership, or
14 corporation licensed by the board. If respondent currently owns or has any legal or beneficial
15 interest in, or serves as a manager, administrator, member, officer, director, trustee, associate, or
16 partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the
17 board, respondent may continue to serve in such capacity or hold that interest, but only to the
18 extent of that position or interest as of the effective date of this decision. Violation of this
19 restriction shall be considered a violation of probation.

20 **19. Separate File of Records** Respondent shall maintain and make available for
21 inspection a separate file of all records pertaining to the acquisition or disposition of all controlled
22 substances. Failure to maintain such file or make it available for inspection shall be considered a
23 violation of probation.

24 **20. Tolling of Suspension** During the period of suspension, Respondent shall not leave
25 California for any period exceeding ten (10) days, regardless of purpose (including vacation).
26 Any such absence in excess of the ten (10) days during suspension shall be considered a violation
27 of probation. Moreover, any absence from California during the period of suspension exceeding
28 ten (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each

1 day over ten (10) days respondent is absent from California. During any such period of tolling of
2 suspension, respondent must nonetheless comply with all terms and conditions of probation.

3 Respondent shall notify the Board of Pharmacy in writing within ten (10) days of departure,
4 and shall further notify the Board of Pharmacy in writing within ten (10) days of return. The
5 failure to provide such notification(s) shall constitute a violation of probation. Upon such
6 departure and return, respondent shall not resume the practice of pharmacy until notified by the
7 board that the period of suspension has been satisfactorily completed.

8 **21. Ethics Course** Within sixty (60) calendar days of the effective date of this decision,
9 Respondent shall enroll in an ethics course at Respondent's expense, approved in advance by the
10 Board of Pharmacy or its designee. Failure to initiate the course during the first year of
11 probation, and complete it within the second year of probation, shall be considered a violation of
12 probation. Respondent shall submit a certificate of completion to the Board of Pharmacy or its
13 designee within five (5) days after completing the course.

14
15 **ADDITIONAL TERMS APPLICABLE TO RESPONDENT**
16 **NM TH PHARMACEUTICALS INC. dba HOLT PHARMACY**

17 **22. Status of License** Respondent owner shall maintain current licensure with the Board
18 of Pharmacy. If Respondent owner submits an application to the board, and the application is
19 approved, for a change of location, change of permit or change of ownership, the board shall
20 retain continuing jurisdiction over the license, and the Respondent shall remain on probation as
21 determined by the board. Failure to maintain current licensure shall be considered a violation of
22 probation.

23 If Respondent's license expires or is cancelled by operation of law or otherwise at any time
24 during the period of probation, including any extensions thereof or otherwise, upon renewal or
25 reapplication respondent's license shall be subject to all terms and conditions of this probation not
26 previously satisfied.

27 **23. License Surrender While on Probation/Suspension** Following the effective date of
28 this decision, should Respondent owner discontinue business, Respondent owner may tender the

1 premises license to the board for surrender. The Board of Pharmacy or its designee shall have the
2 discretion whether to grant the request for surrender or take any other action it deems appropriate
3 and reasonable. Upon formal acceptance of the surrender of the license, Respondent will no
4 longer be subject to the terms and conditions of probation.

5 Upon acceptance of the surrender, Respondent owner shall relinquish the premises wall and
6 renewal license to the board within ten (10) days of notification by the Board of Pharmacy that
7 the surrender is accepted. Respondent owner shall further submit a completed Discontinuance of
8 Business form according to Board of Pharmacy guidelines and shall notify the Board of
9 Pharmacy of the records inventory transfer. Respondent owner shall also, by the effective date of
10 this decision, arrange for the continuation of care for ongoing patients of the pharmacy by, at
11 minimum, providing a written notice to ongoing patients that specifies the anticipated closing
12 date of the pharmacy and that identifies one or more area pharmacies capable of taking up the
13 patients' care, and by cooperating as may be necessary in the transfer of records or prescriptions
14 for ongoing patients. Within five days of its provision to the pharmacy's ongoing patients,
15 Respondent owner shall provide a copy of the written notice to the board. For the purposes of
16 this provision, "ongoing patients" means those patients for whom the pharmacy has on file a
17 prescription with one or more refills outstanding, or for whom the pharmacy has filled a
18 prescription within the preceding sixty (60) days.

19 Respondent owner may not apply for any new licensure from the board for three (3) years
20 from the effective date of the surrender. Respondent owner shall meet all requirements applicable
21 to the license sought as of the date the application for that license is submitted to the board.

22 Respondent owner further stipulates that he shall reimburse the board for its costs of
23 investigation and prosecution prior to the acceptance of the surrender.

24 **24. Notice to Employees** On or before the effective date of this decision, Respondent
25 owner shall ensure that all employees are made aware of all the terms and conditions of
26 Respondent's probation, either by posting a notice of the terms and conditions, circulating such
27 notice, or both. If the notice is posted, it shall be posted in a prominent place and shall remain
28 posted throughout the probation period. Respondent owner shall ensure that all persons hired

1 after the effective date of this decision are made aware of the terms and conditions of
2 Respondent's probation by posting a notice, circulating a notice, or both. Additionally,
3 Respondent owner shall submit written notification to the Board of Pharmacy, within fifteen (15)
4 days of the effective date of this decision, that this term has been satisfied. Failure to timely post
5 or provide notice, or to timely submit notification to the Board of Pharmacy shall be considered a
6 violation of probation. "Employees" as used in this provision include all full-time, part-time,
7 volunteer, temporary and relief employees or independent contractors employed or hired at any
8 time during Respondent's probation period.

9 **25. Owners and Officers: Knowledge of the Law** Within thirty (30) days after the
10 effective date of this decision, Respondent shall provide signed and dated statements from its
11 owners, including any owner or holder of ten percent (10%) or more of the interest in Respondent
12 or Respondent's stock, and any officer. The statements shall declare under penalty of perjury that
13 said individuals have read and are familiar with the state and federal laws and regulations
14 governing the practice of pharmacy. The failure to timely provide said statements under penalty
15 of perjury shall be considered a violation of probation.

16 **26. Posted Notice of Probation** Respondent owner shall prominently post a probation
17 notice provided by the Board of Pharmacy in a place conspicuous and readable by the public.
18 The probation notice shall remain posted during the entire period of probation.

19 Respondent owner shall not directly or indirectly, engage in any conduct or make any
20 statement that is intended to mislead or is likely to have the effect of misleading any patient,
21 customer, member of the public, or other person as to the nature of and reason for the probation
22 of the licensed entity.

23 Failure to timely post such notice shall be considered a violation of probation.

24 **27. Payment of Civil Penalty** Respondent owner shall pay the sum of Four Thousand
25 Dollars (\$4, 000.00) to the Board of Pharmacy as a civil penalty. Respondent owner shall pay the
26 entire reimbursement amount on or before the effective date of this decision or the Respondent
27 shall request a proposed payment schedule from the Board of Pharmacy or its designee, within
28 ten (10) days of the effective date of this decision.

Respondent understands and agrees that the civil penalty is an administrative fine or penalty payable to and for the benefit of a governmental unit, and thus not dischargeable in bankruptcy, pursuant to 11 U.S.C. § 523(a)(7). Respondent further understands and agrees that the filing of bankruptcy by the Respondent shall not relieve the Respondent of the obligation to pay the balance of the civil penalty to the Board of Pharmacy. Failure to pay the civil penalty by the deadline as directed by the Board of Pharmacy shall be considered a violation of probation.

Further, absent prior written approval by the Board of Pharmacy or its designee, the Respondent will be considered to have not successfully completed probation until the civil penalty is paid in full.

28. Community Services Program Within sixty (60) days of the effective date of this decision, Respondent owner shall submit to the Board of Pharmacy or its designee, for prior approval, a community service program in which Respondent shall provide at least one hundred (100) hours of free health-care related services to a community or charitable facility or agency. The Respondent shall provide at least twenty (20) hours of community service per year for the first five years of probation.

Within thirty (30) days of board approval thereof, Respondent owner shall submit documentation to the board demonstrating commencement of the community service program. Respondent owner shall report on progress with the community service program in the quarterly reports.

Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

29. Separate File of Records Respondent owner shall maintain and make available for inspection a separate file of all records pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such file or make it available for inspection shall be considered a violation of probation.

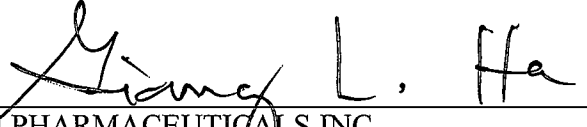
30. DEA Permit Notification Respondent shall notify the Board of Pharmacy or its designee within three (3) days of applying or reapplying for a Drug Enforcement Administration (DEA) permit registration number. Respondent shall also notify the Board of Pharmacy or its

1 designee within three (3) days of receiving a Drug Enforcement Administration (DEA) permit
2 registration number. Respondent shall not order, receive, or retain any federal order forms,
3 including DEA Form 222 for controlled substances.

4 ACCEPTANCE

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

10 DATED: 3/21/11



NM TH PHARMACEUTICALS INC.
dba HOLT PHARMACY;
By: GIANG L. HA
Respondent

14 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
15 discussed it with my attorney, Michael J. Khouri. I understand the stipulation and the effect it
16 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
17 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
18 of the Board of Pharmacy.


19 DATED: 3/21/11



GIANG L. HA
Respondent

22 I have read and fully discussed with Respondent NM TH Pharmaceuticals Inc. dba Holt
23 Pharmacy and Respondent Giang L. Ha the terms and conditions and other matters contained in
24 the above Stipulated Settlement and Disciplinary Order. I approve of its form and content.

25 DATED: 3-21-2011



Michael J. Khouri
Attorney for Respondents
NM TH PHARMACEUTICALS INC. dba HOLT
PHARMACY; and GIANG L. HA


ENDORSEMENT

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

Dated: March 10, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General


ARMANDO ZAMBRANO
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3593

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Attorneys for Complainant

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

In the Matter of the Accusation Against:

Case No. 3593

**NM TH PHARMACEUTICALS INC.,
dba HOLT PHARMACY,
GIANG L. HA, President and Pharmacist-
in-Charge
1101 E. Holt Ave., #F
Pomona, CA 91767**

A C C U S A T I O N

Original Pharmacy Permit No. PHY 49084

and

**GIANG L. HA
761 Guadalupe Dr.
Upland, CA 91786**

Original Pharmacist License No. RPH 57897

Respondents.

Complainant alleges:

PARTIES

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

2. On or about August 4, 2008, the Board issued Original Pharmacy Permit No. PHY 49084 to NM TH Pharmaceuticals Inc. to do business as Holt Pharmacy, Giang L. Ha, President and Pharmacist-In-Charge (Respondent Pharmacy). The Original Pharmacy Permit was in full

1 force and effect at all times relevant to the charges brought herein and will expire on August 1,
2 2010, unless renewed.

3 Giang L. Ha is and has been the President and Pharmacist-In-Charge since August 4, 2008.

4 3. On or about November 23, 2005, the Board issued Original Pharmacist License No.
5 RPH 57897 to Giang L. Ha (Respondent Ha). The Original Pharmacist License was in full force
6 and effect at all times relevant to the charges brought herein and will expire on May 31, 2011,
7 unless renewed.

8 JURISDICTION

9 4. This Accusation is brought before the Board under the authority of the following
10 laws. All section references are to the Business and Professions Code (Code) unless otherwise
11 indicated.

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

16 6. Section 4011 of the Code provides that the Board shall administer and enforce both
17 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
18 Act [Health & Safety Code, § 11000 et seq.].

19 7. Section 4300(a) of the Code provides that every license issued by the Board may be
20 suspended or revoked.

21 8. Section 4402(a) of the Code provides that any license that is not renewed within three
22 years following its expiration may not be renewed, restored, or reinstated and shall be canceled by
23 operation of law at the end of the three-year period.

24 STATUTORY PROVISIONS

25 9. Section 4081 of the Code states, in pertinent part:

26 "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs
27 or dangerous devices shall be at all times during business hours open to inspection by authorized
28 officers of the law, and shall be preserved for at least three years from the date of making. A

current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

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

10. Section 4105 of the Code provides, in pertinent part, that all records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form for a period of three years from the date of making.

11. Section 4113, subdivision (b) of the Code states:

"The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy."

12. Section 4126.5 of the Code provides, in pertinent part, that a pharmacy may furnish dangerous drugs only to: (1) A wholesaler owned or under common control by the wholesaler from whom the dangerous drug was acquired; (2) The pharmaceutical manufacturer from whom the dangerous drug was acquired; (3) A licensed wholesaler acting as a reverse distributor; (4) Another pharmacy or wholesaler to alleviate a temporary shortage of a dangerous drug that could result in the denial of health care; (5) A patient or to another pharmacy pursuant to a prescription or as otherwise authorized by law; (6) A health care provider that is not a pharmacy but that is authorized to purchase dangerous drugs; or (7) Another pharmacy under common control.

"Common control" means the power to direct or cause the direction of the management and policies of another, by ownership, voting rights, contract, or other means.

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13. Section 4301 of the Code states, in pertinent part:

"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:

• • •

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

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

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

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

• •

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

• • •

"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency."

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1 14. Section 4332 of the Code states:

2 "Any person who fails, neglects, or refuses to maintain the records required by Section
3 4081 or who, when called upon by an authorized officer or a member of the board, fails, neglects,
4 or refuses to produce or provide the records within a reasonable time, or who willfully produces
5 or furnishes records that are false, is guilty of a misdemeanor."

6 **REGULATORY PROVISIONS**

7 15. California Code of Regulations, title 16, section 1717, states, in pertinent part:

8 "(a) No medication shall be dispensed on prescription except in a new container which
9 conforms with standards established in the official compendia.

10 "Notwithstanding the above, a pharmacist may dispense and refill a prescription for
11 non-liquid oral products in a clean multiple-drug patient medication package (patient med pak),
12 provided:

13 (1) a patient med pak is reused only for the same patient;

14 (2) no more than a one-month supply is dispensed at one time; and

15 (3) each patient med pak bears an auxiliary label which reads, store in a cool, dry place."
16 . . .

17 16. California Code of Regulations, title 16, section 1718, states:

18 "'Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions
19 Code shall be considered to include complete accountability for all dangerous drugs handled by
20 every licensee enumerated in Sections 4081 and 4332.

21 "The controlled substances inventories required by Title 21, CFR, Section 1304 shall be
22 available for inspection upon request for at least 3 years after the date of the inventory."

23 17. California Code of Regulations, title 16, section 1761, states:

24 "(a) No pharmacist shall compound or dispense any prescription which contains any
25 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any
26 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
27 validate the prescription.

28 ///

1 “(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense
2 a controlled substance prescription where the pharmacist knows or has objective reason to know
3 that said prescription was not issued for a legitimate medical purpose.”

4 18. California Code of Regulations, title 16, section 1770, states:

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

11 19. Title 21, Code of Federal Regulations, section 1307.11 (hereinafter "21 C.F.R. §
12 1307.11") provides in pertinent part that a practitioner who is registered to dispense a controlled
13 substance may distribute (without being registered to distribute) a quantity of such substance to
14 (1) another practitioner registered to dispense that substance for the purpose of general dispensing
15 by the practitioner to patients, or to (2) a reverse distributor who is registered to receive such
16 controlled substance(s).

17 20. Title 21, Code of Federal Regulations, section 1307.21 (hereinafter "21 C.F.R. §
18 1307.21") provides in pertinent part that any person in possession of any controlled substance and
19 desiring or required to dispose of such substance may request assistance from the Special Agent
20 in Charge of the Drug Enforcement Administration (DEA) in the area in which the person is
21 located for authority and instructions to dispose of such substance. In the event of a properly-
22 made request, the Special Agent in Charge shall authorize and instruct the applicant to dispose of
23 the controlled substance by transfer to a person registered under the Drug Enforcement Act and
24 authorized to possess the substance, by delivery to an agent of the DEA, by destruction in the
25 present of an agent of the DEA or other authorized person, or by other appropriate means.

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25. Dilaudid - a trade name for the narcotic substance hydromorphone, is classified as a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(k), and is a dangerous drug within the meaning of Business and Professions Code section 4022.

COST RECOVERY

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

CHARGES AND ALLEGATIONS

27. On March 16, 2009, the Board received a call from the Bureau of Narcotic Enforcement (BNE) informing the Board that BNE had received a call from the Fort Worth Texas Police Department (FWPD). The FWPD stated they had found a shipment of 21 pints of Phenergan with Codeine, which was traced back to Respondent Pharmacy.

28. On or about October 28, 2009, a Board inspector conducted a routine inspection of Respondent Pharmacy and collected records. Respondent Ha was interviewed during the inspection and questioned where he stored the Phenergan with Codeine. Respondent Ha stated that he did not carry any Phenergan with Codeine and the Drug Enforcement Administration (DEA) accused him of some violations and he voluntarily surrendered his DEA registration and controlled substances on or about March 26, 2009.

29. The Board inspector requested Respondent Ha provide him with a controlled substance report from July 1, 2008, to present. Respondent Ha provided the Board inspector a controlled substance report that did not list any disposition of Phenergan with Codeine at Respondent Pharmacy, which Respondent Ha said was a mistake. Respondent Ha admitted that he deleted the Phenergan with Codeine prescriptions on Respondent Pharmacy's computer and he lost the prescriptions for Phenergan with Codeine. Respondent Ha admitted to the Board inspector he shredded the prescription documents.

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30. The Board inspector requested Respondent Ha provide him copies of Respondent Pharmacy's opening controlled substances inventory and the DEA receipt for the controlled substances he surrendered. The Board inspector also requested all Respondent Pharmacy's invoices from all wholesalers for purchases of Phenergan with Codeine, brand and generic, from October 1, 2008 to March 26, 2009 and the opening controlled substance inventory. The Board inspector also conducted a drug audit of Respondent Pharmacy's acquisition and disposition of tablets of Dilaudid 4mg. The audit result indicated 643 pints of Phenergan with Codeine and 2,750 tablets of Dilaudid 4mg were unaccounted for.

FIRST CAUSE FOR DISCIPLINE

As to Respondents Ha and Pharmacy

(Failure to Meet Requirements for Maintaining an Accurate Inventory)

31. Respondents are subject to disciplinary action pursuant to Code sections 4301(j) and/or 4301(o) for violating Code section 4081(a) in conjunction with California Code of Regulations, title 16, section 1718, for failing to meet requirements for maintaining an accurate inventory. The circumstances are as follows:

a. Between June 14, 2008 to March 26, 2009, Respondents destroyed prescription documents and deleted computer records for Phenergan with Codeine and Dilaudid 4mg. The Board inspector's audit of Respondent Pharmacy indicated 643 pints of Phenergan with Codeine and 2,750 tablets of Dilaudid 4mg were unaccounted for.

SECOND CAUSE FOR DISCIPLINE

As to Respondents Ha and Pharmacy

(Obliteration of Computer Records and Production of False Records)

32. Respondents are subject to disciplinary action pursuant to Code sections 4301(j) and/or 4301(o) and/or 4332 for violating Code section 4070(c) in conjunction with California Code of Regulations, title 16, section 1718, for changing, obliterating, destroying, or disposing of, dangerous drug dispensing information. The circumstances are as follows:

a. Between June 14, 2008 to March 26, 2009, Respondents destroyed prescription documents, deleted computer records for Dilaudid 4mg and produced false records of the Daily

1 Log of Combined Scripts and drug utilization report (DUR). The Board inspector's audit of
2 Respondent Pharmacy's computer records showed discrepancies for the following prescription
3 numbers and dates:

- 4 1. Rx 640096, dated September 16, 2008, patient C.E.¹, was not on the DUR or log.
- 5 2. Rx 640097, dated September 17, 2008, patient R.S., was not on the DUR or log.
- 6 3. Rx 642949, dated October 20, 2008, patient C.E., was not on the DUR or log.
- 7 4. Rx 642954, dated October 20, 2008, patient A.N., was not on the DUR or log.
- 8 5. Rx 642955, dated October 20, 2008, patient S.B., was not on the DUR or log.
- 9 6. Rx 642955, dated October 20, 2008, patient J.S., was not on the DUR or log.
- 10 7. Rx 642962, dated October 20, 2008, patient R.S., was not on the DUR or log.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **As to Respondents Ha and Pharmacy**

13 **(Filling of Erroneous or Uncertain Prescriptions and**

14 **Failure to Assume Co Responsibility in Legitimacy of a Prescription)**

15 33. Respondents Ha and Pharmacy are subject to discipline under Code sections 4301(j)
16 and/or 4301(o) in conjunction with Health and Safety Code section 11153 and California Code of
17 Regulations, title 16, section 1761, in that from June 14, 2008 to March 26, 2009, Respondent Ha
18 continuously and excessively filled and dispensed Dilaudid 4mg prescriptions without a
19 legitimate medical purpose, clearly falling below the standard of care of a reasonable prudent
20 pharmacist. The circumstances are as follows:

21 a. On October 3, 2008, Respondents filled a prescription for Dilaudid 4mg from Doctor
22 Nazar Al-Bussam (Dr. Al-Bussam) for patient L.D. Review of the patient and physician
23 addresses revealed none of the patients or physicians either lived or practiced in the Pomona area.

24 b. On October 3, 2008, Respondents filled a prescription for Dilaudid 4mg from Dr. Al-
25 Bussam for patient B.A. Review of the patient and physician addresses revealed none of the
26 patients or physicians either lived or practiced in the Pomona area.

27 ¹ Initials are used to protect the privacy of the patients. Full names will be provided
28 following a request for discovery.

1 c. On October 3, 2008, Respondents filled a prescription for Dilaudid 4mg from Dr. Al-
2 Bussam for patient J.J. Review of the patient and physician addresses revealed none of the
3 patients or physicians either lived or practiced in the Pomona area.

4 d. On October 3, 2008, Respondents filled a prescription for Dilaudid 4mg from Dr. Al-
5 Bussam for patient R.D. Review of the patient and physician addresses revealed none of the
6 patients or physicians either lived or practiced in the Pomona area.

7 e. On October 3, 2008, Respondents filled a prescription for Dilaudid 4mg from Dr. Al-
8 Bussam for patient S.J. Review of the patient and physician addresses revealed none of the
9 patients or physicians either lived or practiced in the Pomona area.

10 f. On October 3, 2008, Respondents filled a prescription for Dilaudid 4mg from Dr. Al-
11 Bussam for patient J.F. Review of the patient and physician addresses revealed none of the
12 patients or physicians either lived or practiced in the Pomona area.

13 **PRAYER**

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

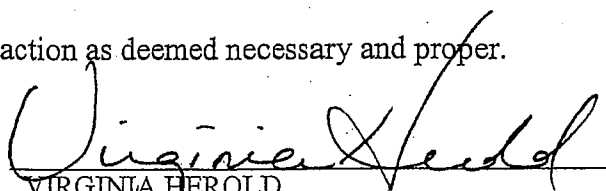
16 1. Revoking or suspending Original Pharmacy Permit No. PHY 49084, issued to NM
17 TH Pharmaceuticals Inc. to do business as Holt Pharmacy, Giang L. Ha, President and
18 Pharmacist-In-Charge.

19 2. Revoking or suspending Original Pharmacist License No. RPH 57897, issued to
20 Giang L. Ha.

21 3. Ordering Holt Pharmacy and Giang L. Ha to pay the Board of Pharmacy the
22 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
23 Professions Code section 125.3;

24 4. Taking such other and further action as deemed necessary and proper.

25 DATED: 4/14/10

26 
VIRGINIA HEROLD

27 Executive Officer

28 Board of Pharmacy, Department of Consumer Affairs

State of California

Complainant