

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

In the Matter of the Accusation Against:

LAN THI TRAN NGUYEN
1710 Main Street
Susanville, CA 96130

Pharmacist License No. RPH 43129

And

DU PHARMACY
10042 Lampson Ave
Garden Grove, CA 92840

Pharmacy License No. PHY 49001

Respondent.

Case No. 3727

OAH No. 2010110837

Also Pertaining To

Citation No. CI 2010 48444
OAH No. 2011090607

Citation No. CI 2009 43894
OAH No. 2011090383, and

Citation No. CI 2010 47822
OAH No. 2011090603

DECISION AND ORDER

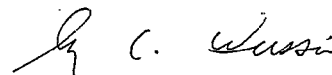
The attached Stipulated Surrender and Revocation of Licenses and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on August 21, 2013.

It is so ORDERED on July 22, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 **LAN THI TRAN NGUYEN**
13 **810 North Palm Street**
14 **La Habra, CA 90631**

15 **Pharmacist License No. RPH 43129**

16 **DU PHARMACY**
17 **10042 Lampson Ave**
Garden Grove, CA 92840

18 **Pharmacy License No. PHY 49001**

19
20 Respondents.

Case No. 3727

OAH No. 2010110837

**STIPULATED SURRENDER AND
REVOCATION OF LICENSES AND
ORDER**

Also Pertaining To

Citation No. CI 2010 48444

OAH No. 2011090607

Citation No. CI 2009 43894

OAH No. 2011090383, and

Citation No. CI 2010 47822

OAH No. 2011090603

23 In the interest of a prompt and speedy settlement of this matter, consistent with the public
24 interest and the responsibility of the Board of Pharmacy, Department of Consumer Affairs, the
25 parties hereby agree to the following Stipulated Surrender and Revocation of Licenses and Order
26 to submit to the Board for approval and adoption as the final disposition of the Accusation in this
27 case, and of Citation No. CI 2010 48444, Citation No. CI 2009 43894 and Citation No. CI 2010
28 47822, also issued to Respondents.

1 PARTIES

2 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought
3 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,
4 Attorney General of the State of California, by Desiree I. Kellogg, Deputy Attorney General.

5 2. Both Respondents, Lan Thi Tran Nguyen (Respondent Tran Nguyen) and Lan Thi
6 Tran Nguyen dba Du Pharmacy (Respondent Du Pharmacy), are represented in this proceeding
7 by attorney Miranda McCroskey, of Law Office of Miranda McCroskey, 1432 Edinger Avenue,
8 Suite 240, Tustin, California 92780 (telephone (714) 389-2257).

9 3. On or about March 6, 1990, the Board of Pharmacy issued Pharmacist License No.
10 RPH 43129 to Respondent Tran Nguyen. The Pharmacist License was in full force and effect at
11 all times relevant to the charges brought in Accusation No. 3727. The Pharmacist License was
12 suspended by the Board of Pharmacy on December 30, 2011.

13 4. On or about March 24, 2008, the Board of Pharmacy issued Pharmacy License No.
14 PHY 49001 to Respondent Du Pharmacy. The Pharmacy License was in full force and effect at
15 all times relevant to the charges brought in Accusation No. 3727. The Pharmacy License was
16 cancelled by the Board of Pharmacy on July 15, 2011.¹

17 ACCUSATION AND CITATIONS

18 5. Accusation No. 3727 was filed before the Board of Pharmacy (Board), Department of
19 Consumer Affairs, and is currently pending against Respondents. The Accusation and all other
20 statutorily required documents were properly served on Respondents on November 2, 2010.
21 Respondents timely filed their Notice(s) of Defense contesting the Accusation. A copy of
22 Accusation No. 3727 is attached as Exhibit A and incorporated by reference.

23 6. On April 8, 2011, Citation No. CI 2010 47822, with a fine of \$1,475,000.00, was
24 issued to Respondent Tran Nguyen. Respondent timely appealed the Citation. A copy of Citation
25 No. CI 2010 47822 is attached as Exhibit B and incorporated herein by reference.

26
27 ¹ Pursuant to Business and Professions Code section 4300.1, the cancellation of the license
28 does not deprive the Board of jurisdiction to proceed with disciplinary action against the
pharmacy license.

1 7. On April 8, 2011, Citation No. CI 2009 43894, with a fine of \$1,475,000.00, was
2 issued to Respondent Du Pharmacy. Respondent timely appealed the Citation. A copy of
3 Citation No. CI 2009 43894 is attached as Exhibit C and incorporated herein by reference.

4 8. On June 9, 2011, Citation No. CI 2010 48444, with a fine of \$500.00, was issued to
5 Respondent Tran-Nguyen. Respondent timely appealed the Citation. A copy of Citation No. CI
6 2010 48444 is attached as Exhibit D and incorporated herein by reference.

7 ADVISEMENT AND WAIVERS

8 9. Respondents have carefully read, fully discussed with counsel, and understand the
9 allegations in Accusation No. 3727, and in each of the above listed Citations (No. CI 2010 47822,
10 CI 2009 43894 and CI 2010 48444). Respondents have also carefully read, fully discussed with
11 counsel, and understand the effects of this Stipulated Surrender and Revocation of Licenses and
12 Order.

13 10. Respondents are fully aware of their legal rights in this matter, including the right to a
14 hearing on the charges and allegations in the Accusation and any pending citation(s); the right to
15 confront and cross-examine the witnesses against them; the right to present evidence and to
16 testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of
17 witnesses and the production of documents; the right to reconsideration and court review of an
18 adverse decision; and all other rights accorded by the California Administrative Procedure Act
19 and other applicable laws.

20 11. Respondents voluntarily, knowingly, and intelligently waive and give up each and
21 every right set forth above. Respondents withdraw their notice(s) of appeal or other requests for
22 hearing on the above citations, and agree that those citations are final as modified below.

23 CULPABILITY

24 12. Respondents admit the truth of each and every charge and allegation in Accusation
25 No. 3727, and agree that cause exists for discipline. Respondent Tran Nguyen hereby surrenders
26 her Pharmacist License No. RPH 43129 for the Board's formal acceptance. Respondent Du
27 Pharmacy hereby agrees to the revocation of its Pharmacy License No. PHY 49001 by the Board.
28

13. Respondents understand that by signing this stipulation they enable the Board to issue an order accepting the surrender of, or imposing revocation on, their respective licenses without further process or opportunity to be heard.

CONTINGENCY

14. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondents or their counsel. By signing the stipulation, Respondents understand and agree that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Revocation and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

15. The parties understand and agree that facsimile copies of this Stipulated Surrender and Revocation of Licenses and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

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

17. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order Modifying Citations and (two) Disciplinary Orders as to each of the two Respondents:

ORDER MODIFYING CITATIONS

IT IS HEREBY ORDERED that:

18. As to Citation No. CI 2010 47822, issued to Respondent Tran Nguyen, the \$1,475,000.00 fine assessed by the citation is reduced to \$5,000.00 and is due and payable within thirty days of the execution of this Stipulation. The Citation in all other respects remains unchanged, and is now final.

19. As to Citation No. CI 2009 43894, issued to Respondent Du Pharmacy, the \$1,475,000.00 fine assessed by the citation is reduced to \$5,000.00 and is due and payable within thirty days of the execution of this Stipulation. The Citation in all other respects remains unchanged, and is now final.

20. As to Citation No. CI 2010 48444, issued to Respondent Tran Nguyen, the \$500.00 fine assessed by the citation is reduced to zero or eliminated. The Citation in all other respects remains unchanged, and is now final.

21. With regard to each of the Citations, this shall constitute a satisfactory resolution of this matter, and shall be represented as such in any public disclosure(s). This stipulation shall become part of the record with regard to each of the respective Citations.

DISCIPLINARY ORDER AS TO RESPONDENT TRAN NGUYEN

IT IS HEREBY ORDERED that Pharmacist License No. RPH 43129, issued to Respondent Tran Nguyen, is surrendered and accepted by the Board of Pharmacy.

1. The surrender of Respondent Tran Nguyen's Pharmacist License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent Tran Nguyen. This stipulation constitutes a record of the discipline and shall become a part of Respondent Tran Nguyen's license history with the Board of Pharmacy.

2. Respondent Tran Nguyen shall lose all rights and privileges as a Pharmacist in California as of the effective date of the Board's Decision and Order.

3. Respondent Tran Nguyen shall cause to be delivered to the Board her pocket license(s) and, if one was issued, her wall certificate(s) on or before the effective date of the Decision and Order.

1 4. Respondent Tran Nguyen may not apply, reapply, or petition for any licensure or
2 registration of the Board for three (3) years from the effective date of the Board's Decision and
3 Order.

4 5. If Respondent Tran Nguyen ever files an application for licensure or a petition for
5 reinstatement in the State of California, the Board shall treat it as a new application for licensure.
6 Respondent Tran Nguyen must comply with all the laws, regulations and procedures for licensure
7 in effect at the time the application or petition is filed, and all of the charges and allegations
8 contained in Accusation No. 3727 shall be deemed to be true, correct and admitted by Respondent
9 Tran Nguyen when the Board determines whether to grant or deny the application.

10 6. If Respondent Tran Nguyen ever applies for licensure or petitions for reinstatement in
11 the State of California, Tran Nguyen shall pay the agency its costs of investigation and
12 enforcement in the amount of \$27,443.00 (\$15,560.00 in prosecutorial costs and \$11,883.00 in
13 investigative costs) and \$40,000.00 payable to the Board as a civil penalty, prior to issuance of a
14 new or reinstated license. Respondent Tran Nguyen understands and agrees that the
15 aforementioned civil penalty is an administrative fine pursuant to 11 U.S.C. §523(a)(7), and is
16 non-dischargeable in bankruptcy. Respondent further understands and agrees that the filing of
17 bankruptcy by Respondent shall not relieve Respondent of the obligation to pay the balance of
18 this amount to the Board.

19 7. If Respondent Tran Nguyen should ever apply or reapply for a new license or
20 certification, or petition for reinstatement of a license, by any other health care licensing agency
21 in the State of California, all of the charges and allegations contained in Accusation No. 3727
22 shall be deemed to be true, correct, and admitted by Respondent Tran Nguyen for the purpose of
23 any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

24 **DISCIPLINARY ORDER AS TO RESPONDENT DU PHARMACY**

25 IT IS HEREBY ORDERED that Pharmacy License No. PHY 49001, issued to
26 Respondent Du Pharmacy, is revoked by the Board of Pharmacy.

27 1. The revocation of Respondent Du Pharmacy's license by the Board shall constitute
28 the imposition of discipline against Respondent Du Pharmacy. This stipulation constitutes a

1 record of the discipline and shall become a part of Respondent Du Pharmacy's license history
2 with the Board of Pharmacy.

3 2. Respondent Du Pharmacy shall lose any and all remaining rights and privileges as a
4 Pharmacy in California as of the effective date of the Board's Decision and Order.

5 3. Respondent Du Pharmacy shall cause to be delivered to the Board its pocket
6 license(s) and, if one or more was issued, its wall certificate(s), on or before the effective date of
7 the Decision and Order.

8 4. Respondent Du Pharmacy may not apply, reapply, or petition for any licensure or
9 registration of the Board for three (3) years from the effective date of the Decision and Order.

10 5. If Respondent Du Pharmacy ever applies for licensure or petitions for reinstatement
11 in the State of California, the Board shall treat it as a petition for reinstatement. Respondent Du
12 Pharmacy must comply with all laws, regulations and procedures for licensure in effect at the
13 time the application or petition is filed, and all of the charges in Accusation No. 3727 shall be
14 deemed to be true, correct and admitted by Respondent Du Pharmacy when the Board determines
15 whether to grant or deny the petition.

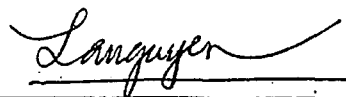
16 6. If Respondent ever applies for licensure or petitions for reinstatement in the State of
17 California, Respondent shall pay the Board, on the basis of joint and several liability, any part of
18 the \$27,433.00 in costs of investigation and enforcement of this case and the civil penalty in the
19 amount of \$40,000.00, made payable by Respondent Tran Nguyen by the Disciplinary Order
20 above, that has/have not yet been paid to the Board or otherwise discharged by Respondent Tran
21 Nguyen pursuant to the Disciplinary Order above, prior to issuance to Respondent Du Pharmacy
22 of a reinstated license.

23 7. If Respondent Du Pharmacy ever applies for a license or certification, or petitions for
24 reinstatement of a license, by any other health care licensing agency in the State of California, all
25 of the charges in Accusation No. 3727 shall be deemed to be true, correct, and admitted by
26 Respondent Du Pharmacy for the purpose of any Statement of Issues or any other proceeding
27 seeking to deny or restrict licensure.
28

1 ACCEPTANCE

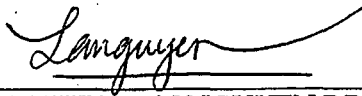
2 I have carefully read the above Stipulated Surrender and Revocation of Licenses and Order
3 and have fully discussed it with my attorney, Miranda McCroskey. I understand the stipulation
4 and the effect it will have on my Pharmacist License. I enter into this Stipulated Surrender and
5 Revocation of Licenses and Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the Board of Pharmacy.

7
8 DATED: APRIL 25th, 2013


9 LAN THI TRAN NGUYEN
Respondent Tran Nguyen

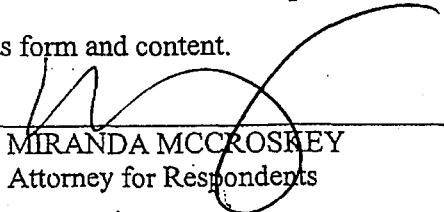
10 I have carefully read the above Stipulated Surrender and Revocation of Licenses and Order
11 and have fully discussed it with my attorney, Miranda McCroskey. I understand the stipulation
12 and the effect it will have on my Pharmacy License. I enter into this Stipulated Surrender and
13 Revocation of Licenses and Order voluntarily, knowingly, and intelligently, and agree to be
14 bound by the Decision and Order of the Board of Pharmacy.

15
16 DATED: APRIL 25th, 2013


17 LAN THI TRAN NGUYEN DBA DU
18 PHARMACY
Respondent Du Pharmacy

19
20 I have read and fully discussed with Respondent Du Pharmacy and Respondent Tran
21 Nguyen the terms and conditions and other matters contained in this Stipulated Surrender and
22 Revocation of Licenses and Order. I approve its form and content.

23 DATED: 4/30/13


24 MIRANDA MCCROSKEY
Attorney for Respondents

ENDORSEMENT

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

Dated: 5/1/13

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

DESIREE I. KELLOGG
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3727

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11
12 Case No. 3727

13 In the Matter of the Accusation Against:

14 **LAN THI TRAN NGUYEN**
810 North Palm Street
La Habra, CA 90631

A C C U S A T I O N

15 **Pharmacist License No. RPH 43129**

16 **DU PHARMACY**
10042 Lampson Ave
17 **Garden Grove, CA 92840**

18 **Permit No. PHY 49001**

19 Respondents.
20

21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about March 6, 1990, the Board of Pharmacy issued Pharmacist License
26 Number RPH 43129 to Lan Thi Tran Nguyen (Respondent). The Pharmacist License was in full
27 force and effect at all times relevant to the charges brought herein and will expire on July 31,
28 2011, unless renewed.

3. On or about March 24, 2008, the Board of Pharmacy issued Permit No. PHY 49001 to Lan Thi Tran Nguyen to do business as Du Pharmacy (Respondent). Permit No. PHY 49001 was in full force and effect at all times relevant to the charges brought herein and will expire on March 1, 2011. Lan Thi Tran Nguyen is and at all times has been the individual licensed owner and pharmacist-in-charge of Du Pharmacy since March 24, 2008.

JURISDICTION

4. 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.

5. Section 4300(a) of the Code states that “[e]very license issued may be suspended or revoked.”

6. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or 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.

STATUTORY AND REGULATORY PROVISIONS

7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering the suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

9. Section 493 of the Code states:

1 Notwithstanding any other provision of law, in a proceeding conducted by a
2 board within the department pursuant to law to deny an application for a license or
3 to suspend or revoke a license or otherwise take disciplinary action against a person
4 who holds a license, upon the ground that the applicant or the licensee has been
5 convicted of a crime substantially related to the qualifications, functions, and duties
6 of the licensee in question, the record of conviction of the crime shall be conclusive
7 evidence of the fact that the conviction occurred, but only of that fact, and the board
8 may inquire into the circumstances surrounding the commission of the crime in
9 order to fix the degree of discipline or to determine if the conviction is substantially
10 related to the qualifications, functions, and duties of the licensee in question.

11 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
12 and 'registration.'

13 10. Section 4032 of the Code states:

14 'License' means and includes any license, permit, registration, certificate, or
15 exemption issued by the board and includes the process of applying for and renewing
16 the same.

17 11. Section 4113(c) states:

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

20 12. Section 4301 of the Code states:

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

25

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

28

(l) The conviction of a crime substantially related to the qualifications,
functions, and duties of a licensee under this chapter. The record of conviction of a
violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
States Code regulating controlled substances or of a violation of the statutes of this
state regulating controlled substances or dangerous drugs shall be conclusive
evidence of unprofessional conduct. In all other cases, the record of conviction shall
be conclusive evidence only of the fact that the conviction occurred. The board may
inquire into the circumstances surrounding the commission of the crime, in order to
fix the degree of discipline or, in the case of a conviction not involving controlled
substances or dangerous drugs, to determine if the conviction is of an offense
substantially related to the qualifications, functions, and duties of a licensee under this
chapter. A plea of guilty or a conviction following a plea of nolo contendere is
deemed to be a conviction within the meaning of this provision. The board may take
action when the time for appeal has elapsed or the judgment of conviction has been

1 affirmed on appeal or when an order granting probation is made suspending the
2 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the
3 Penal Code allowing the person to withdraw his or her plea of guilty and to enter a
4 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
5 information or indictment.

6

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

12 ...

13 13. Section 4307 of the Code states:

14 (a) any person who has been denied a license or whose license has been revoked
15 or is under suspension or who has filed to renew his or her license while it was under
16 suspension, or who has been a manger, administrator, owner, member, officer,
17 director, associate, or partner of any partnership, corporation, firm, or association
18 whose application for a license has been denied or revoked, is under suspension or
19 has been placed on probation, and while acting as the manger, administrator, owner,
20 member, officer, director, associate, or partner had knowledge of or knowingly
21 participated in any conduct for which the license was denied, revoked, suspended or
22 placed on probation, shall be prohibited from serving as a manger, administrator,
23 owner, member, officer, director, associate, or partner of a licensee as follows:

24 (1) Where a probationary license is issued or where an existing license is
25 placed on probation, this prohibition shall remain I effect for a period not to exceed
26 five years.

27 (2) Where the license is denied or revoked, the prohibition shall continue
28 until the license is issued or reinstated.

(b) 'Manager, administrator, owner, member, officer, director, associate or
partner,' as used in this section and Section 4308, may refer to a pharmacist or to any
other person who serves in that capacity in or for a licensee.

(c) The provisions of subdivision (a) may be alleged in any pleading filed
pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of
the Government Code. However, no order may be issued in that case except as to a
person who is named in the caption, as to whom the pleading alleges the applicability
of this section, and where the person has been given notice of the proceeding as
required by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of
the Government Code. The authority to proceed as provided by this subdivision shall
be in addition to the board's authority to proceed under Section 4339 or any other
provision of law.

14. Title 16, California Code of Regulations, section 1769 states:

....

1 (b) When considering the suspension or revocation of a facility or a
2 personal license on the ground that the licensee or the registrant has been convicted of
3 a crime, the board, in evaluating the rehabilitation of such person and his present
4 eligibility for a license will consider the following criteria:

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

6 (2) Total criminal record.

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

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

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

11 15. Title 16, California Code of Regulations, section 1770 states:

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

19 COST RECOVERY

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

24 DRUGS

25 17. Pseudoephedrine is a listed I chemical as defined by title 21, United States Code,
26 Section 802(34) ("the term 'listed I chemical' means a chemical specified by regulation of the
27 Attorney General as a chemical that is used in manufacturing a controlled substance in violation
28 of this subchapter and is important to the manufacture of the controlled substances, and such term
includes...(K) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers").

18 18. Methamphetamine is a schedule II controlled substance as designated by Health and
19 Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions
20 Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(February 5, 2010 Conviction for Sale of Chemical to be Used to Manufacture Controlled Substance on May 13, 2009)

19. Respondents are subject to disciplinary action under sections 490 and 4301(l) of the Code in that Respondent Lan Thi Tran Nguyen was convicted of a crime that is substantially related to the qualifications, duties and functions of a pharmacist. The circumstances are as follows:

a. On or about February 5, 2010, in a criminal proceeding entitled *United States v. Lan Thi Tran Nguyen*, in United States District Court for the Central District of California, case number 09-115-CJC, a jury rendered a verdict against Respondent and found her guilty of distribution of pseudoephedrine, knowing or having reasonable cause to believe that the pseudoephedrine would be used to manufacture a controlled substance, namely methamphetamine in violation of Title 21, United States Code, section 841(c)(2). Her sentencing hearing date is scheduled for January 31, 2011.

b. The facts that led to the conviction were that Respondent worked as the pharmacist in charge and owned Respondent Du Pharmacy in Garden Grove, California in April and May 2009. On or about April 28, 2009, the Drug Enforcement Administration and local police executed a probation search of the hotel room of a confidential informant. In his hotel room, law enforcement officials found 144 "blister packs" of pseudoephedrine and a business card for "Du Pharmacy." The informant agreed to cooperate with law enforcement agents and stated that he obtained the pseudoephedrine from Respondent Du Pharmacy.

c. On May 13, 2009, the informant conducted an undercover buy of pseudoephedrine. Respondent sold the informant 9 cardboard cases, each containing 24 individually wrapped blister packs of products containing pseudoephedrine. Each blister pack contained 10 pills, each pill consisted of a 240 milligram dosage. In sum, Respondent sold the informant 2,160 pills of pseudoephedrine, totaling 518.4 grams. Respondent knew that pseudoephedrine could be used to make methamphetamine and that there are limits to the amount of pseudoephedrine that can be sold in a single transaction. For example, when law enforcement

1 officials searched Respondent's pharmacy, they found an Internet printout with passages
2 highlighted describing how pseudoephedrine could be used to make methamphetamine.
3 Additionally, Respondent received a training entitled "Pseudoephedrine Learner's Guide" while
4 working at CVS Pharmacy in 2006. This training discussed how pseudoephedrine could be used
5 to make methamphetamine and that customers were limited to purchasing certain amounts of
6 pseudoephedrine per day and per month. Respondent also admitted to law enforcement officials
7 that she ordered cases of OHM brand cold medication containing pseudoephedrine from a
8 wholesaler on a daily basis.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct-Violating Laws Regulating Controlled Substances)**

11 20. Respondents are subject to disciplinary action under section 4301(j) of the Code for
12 violations of the California Uniform Controlled Substances Act, including Health and Safety
13 Code section 11100(g)(3), which limits the amount of pseudoephedrine that can be sold in a
14 single transaction, as is more fully described in paragraph 19 above.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct-Violations of the Chapter)**

17 21. Respondents are subject to disciplinary action under Code section 4301(o) for
18 violations of the Pharmacy Act in that Respondent Lan Thi Tran Nguyen sold more than three
19 packages of a product she knew to contain pseudoephedrine and more than 9 grams of
20 pseudoephedrine in a single transaction in violation of Health and Safety Code section
21 11100(g)(3), as is more fully described in paragraph 19 above.

22 **PRAYER**

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

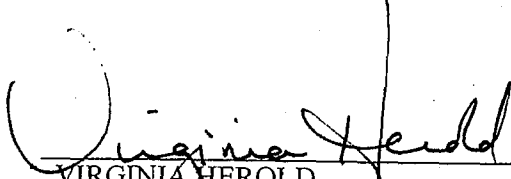
25 1. Revoking or suspending Pharmacist License Number RPH 43129, issued to Lan Thi
26 Tran Nguyen;

27 2. Revoking or suspending Permit No. PHY 49001 issued to Du Pharmacy;
28

2. Ordering Lan Thi Tran Nguyen and Du Pharmacy to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 10/29/10


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

SD2010701042
70304813.doc

Exhibit B

Citation No. 2010 47822

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

CITATION AND FINE

| | |
|---|--|
| Citation Number CI 2010 47822 | Name, License No. LAN THI TRAN-NGUYEN , RPH 43129. |
|---|--|

| | | |
|--|--|-----------------------|
| JURISDICTION: Bus. & Prof. Code § 4005; CCR, title 16, § 1775; Bus. & Prof. Code § 4113 subd. (c) | | |
| VIOLATION CODE SECTION | OFFENSE | AMOUNT OF FINE |
| Bus. & Prof. Code § 4067 subd. (a) | Internet; Dispensing Dangerous Drugs or Devices without Prescription; No person shall dispense or furnish, or cause to be furnished dangerous drugs...on the internet...without a prescription issued pursuant to a good faith examination | \$1,475,000.00 |

CONDUCT:

Dispensing Internet Prescriptions - Lan Tran-Nguyen was not in compliance with Business and Professions Code section 4067, subdivision (a), which prohibits furnishing or dispensing controlled substances via the Internet without a good faith prior exam. Specifically, from 08/21/09 to 10/02/09; Lan Tran-Nguyen furnished a total of 59 prescriptions issued via the Internet, which were without a good faith prior exam while she was working at Du Pharmacy located at 10042 Lampson Ave., Garden Grove, CA. Violation of pharmacy law. The prescriptions included:

| Patient Name | City | Medication | Dr's Name | City | State | Rx Date/Time |
|--------------|----------------|------------|-------------------|-------------|-------|--------------|
| jm | Elk Grove | Soma | Kareem Tannous | Freeport | NY | |
| rv | Harbor City | Soma | Samson Orusa | Clarksville | TN | |
| am | Sacramento | Soma | Kareem Tannous | Freeport | NY | |
| gr | Huntington | Soma | Samson Orusa | Clarksville | TN | |
| jw | Lancaster | Ultram | Kareem Tannous | Freeport | NY | |
| gl | Vallejo | Soma | Jack Olin | Boca Raton | FL | |
| ay | Coalinga | Fioricet | James Frede | Wailuku | HI | 0:26:25 |
| dm | Azusa | Soma | Joseph Kamaka III | Wailuku | HI | 2:36:00 |
| mr | Concord | Soma | Samson Orusa | Clarksville | TN | |
| sb | Monterey | Soma | Joseph Kamaka III | Wailuku | HI | |
| fa | Gardena | Soma | James Frede | Wailuku | HI | 1:56:48 |
| cj | Castaic | Soma | Samson Orusa | Clarksville | TN | 23:09:43 |
| ko | Portola Hills | Fioricet | Laura Garabedian | Glen Oaks | NY | 23:43:24 |
| dh | Lakeport | Soma | Kareem Tannous | Freeport | NY | 0:38:26 |
| mp | Tulare | Soma | Joseph Kamaka III | Wailuku | HI | 0:05:32 |
| mg | Nevada City | Soma | Samson Orusa | Clarksville | TN | 2:31:58 |
| jk | Canyon Country | Soma | Samson Orusa | Clarksville | TN | |
| gg | El Segundo | Soma | Kareem Tannous | Freeport | NY | 3:29:03 |
| jr | Westlake | Ultram | Kareem | Freeport | NY | 1:55:07 |

| | Village | | Tannous | | | |
|----|------------------|----------|-------------------|-----------------|----|----------|
| bp | Van Nuys | Soma | Howard Strassberg | Brooksville | NY | 5:08:25 |
| jl | West Covina | Soma | Samson Orusa | Clarksville | TN | 1:00:38 |
| ro | Carmel Valley | Soma | Gloria Fong | Delaware | DE | |
| gm | Santa Barbara | Soma | Leland Hilburg | Tarzana | CA | 0:21:49 |
| ac | Paradise | Ultram | Kareem Tannous | Freeport | NY | |
| gb | San Bernardino | Soma | Samson Orusa | Clarksville | TN | 3:52:14 |
| dg | Hemet | Fioricet | Samson Orusa | Clarksville | TN | 0:35:14 |
| mk | Portola Hills | Soma | Terrill Brown | Visalia | CA | 5:12:27 |
| mh | Hacienda Height | Soma | Samuel Neil Grief | Chicago | IL | |
| ar | Orville | Soma | Jack Olin | Boca Raton | FL | 3:43:49 |
| jm | Murrieta | Soma | Samuel Neil Grief | Chicago | IL | |
| vg | Santa Fe Springs | Soma | Howard Strassberg | Old Brooksville | NY | 5:00:39 |
| jp | Thermal | Ultram | Samson Orusa | Clarksville | TN | 01:01:25 |
| ts | Sacramento | Soma | Howard Strassberg | Old Brooksville | NY | |
| kr | Quincy | Soma | Samson Orusa | Clarksville | TN | 1:29:02 |
| jb | Willows | Soma | Kareem Tannous | Freeport | NY | 5:19:41 |
| mm | Oceano | Soma | Kareem Tannous | Freeport | NY | |
| ch | Oroville | Soma | Kareem Tannous | Freeport | NY | 12:11:04 |
| gb | Torrance | Soma | Charles Myers | Mishawaka | IN | |
| jk | Concord | Ultram | Irving Harper III | Kihei | HI | 0:31:46 |
| gh | Fresno | Soma | Samson Orusa | Clarksville | TN | 22:50:47 |
| pp | Roseville | Soma | Elaina George | Atlanta | GA | 3:29:12 |
| ar | Mountainview | Soma | Samson Orusa | Clarksville | TN | |
| te | Truckee | Soma | Bob Thompson | West Frankfurt | IL | 5:23:22 |
| jw | Stockton | Soma | Gloria Fong | Delaware | DE | 3:55:23 |
| dw | Concord | Soma | James Frede | Wailuku | HI | |
| ml | San Jose | Ultram | Howard Strassberg | Old Brooksville | NY | 22:27:37 |
| hc | Van Nuys | Soma | Kareem Tannous | Freeport | NY | |
| dk | Stockton | Soma | Samson Orusa | Clarksville | TN | |
| jz | Mill Valley | Fioricet | Samson Orusa | Clarksville | TN | |
| jd | Glendora | Soma | Gloria Fong | Newark | DE | 0:28:02 |
| gr | Lomita | Soma | Samuel Neil Grief | Chicago | IL | |
| ml | Merced | Soma | Samuel Neil Grief | Chicago | IL | |
| pp | Fresno | Soma | Samson Orusa | Clarksville | TN | |
| kg | Pacheco | Soma | Laura Garabedian | Glen Oaks | NY | |
| wb | Tracy | Soma | James Frede | Wailuku | HI | |
| es | Corning | Soma | Samuel Neil Grief | Chicago | IL | |
| as | Temecula | Soma | Charles Myers | Mishawaka | IN | |
| ja | Napa | Soma | Samuel Neil Grief | Chicago | IL | |

CITATION ISSUED ON: April 8, 2011

TOTAL AMOUNT OF FINE(S): \$1,475,000.00

PAYMENT OF FINE(S) DUE BY: May 8, 2011

Exhibit C

Citation No. 2009 43894

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

CITATION AND FINE

| | |
|---|--|
| Citation Number CI 2009 43894 | Name, License No. DU PHARMACY, PHY 49001 |
|---|--|

JURISDICTION: Bus. & Prof. Code § 4005; CCR, title 16, § 1775; Bus. & Prof. Code § 4301, subd. (o)

| VIOLATION CODE SECTION | OFFENSE | AMOUNT OF FINE |
|---------------------------------------|--|-----------------------|
| Bus. & Prof. Code § 4067 subd. (a) | Internet; Dispensing Dangerous Drugs or Devices without Prescription; No person shall dispense or furnish, or cause to be furnished dangerous drugs...on the internet...without a prescription issued pursuant to a good faith examination | \$1,475,000.00 |

CONDUCT:

Dispensing Internet Prescriptions Du Pharmacy was not in compliance with Business and Professions Code section 4067, subdivision (a), which prohibits furnishing or dispensing dangerous drugs via the Internet without a good faith prior exam. Specifically, from 08/21/09 to 10/02/09, Du Pharmacy, located at 10042 Lampson Ave., Garden Grove, CA, furnished total of 59 prescriptions issued via the Internet, which were without a good faith prior exam, and written by in and out-of-state prescribers . Violation of pharmacy law. The prescriptions included:

| Patient Name | City | Medication | Dr's Name | City | State | Rx Date/Time |
|--------------|----------------|------------|-------------------|-------------|-------|--------------|
| jm | Elk Grove | Soma | Kareem Tannous | Freeport | NY | |
| rv | Harbor City | Soma | Samson Orusa | Clarksville | TN | |
| am | Sacramento | Soma | Kareem Tannous | Freeport | NY | |
| gr | Huntington | Soma | Samson Orusa | Clarksville | TN | |
| jw | Lancaster | Ultram | Kareem Tannous | Freeport | NY | |
| gl | Vallejo | Soma | Jack Olin | Boca Raton | FL | |
| ay | Coalinga | Fioricet | James Frede | Wailuku | HI | 0:26:25 |
| dm | Azusa | Soma | Joseph Kamaka III | Wailuku | HI | 2:36:00 |
| mr | Concord | Soma | Samson Orusa | Clarksville | TN | |
| sb | Monterey | Soma | Joseph Kamaka III | Wailuku | HI | |
| fa | Gardena | Soma | James Frede | Wailuku | HI | 1:56:48 |
| cj | Castaic | Soma | Samson Orusa | Clarksville | TN | 23:09:43 |
| ko | Portola Hills | Fioricet | Laura Garabedian | Glen Oaks | NY | 23:43:24 |
| dh | Lakeport | Soma | Kareem Tannous | Freeport | NY | 0:38:26 |
| mp | Tulare | Soma | Joseph Kamaka III | Wailuku | HI | 0:05:32 |
| mg | Nevada City | Soma | Samson Orusa | Clarksville | TN | 2:31:58 |
| jk | Canyon Country | Soma | Samson Orusa | Clarksville | TN | |
| gg | El Segundo | Soma | Kareem | Freeport | NY | 3:29:03 |

| | | | | | | |
|----|------------------|----------|-------------------|-----------------|----|----------|
| | | | Tannous | | | |
| jr | Westlake Village | Ultram | Kareem Tannous | Freeport | NY | 1:55:07 |
| bp | Van Nuys | Soma | Howard Strassberg | Brooksville | NY | 5:08:25 |
| jl | West Covina | Soma | Samson Orusa | Clarksville | TN | 1:00:38 |
| ro | Carmel Valley | Soma | Gloria Fong | Delaware | DE | |
| gm | Santa Barbara | Soma | Leland Hilburg | Tarzana | CA | 0:21:49 |
| ac | Paradise | Ultram | Kareem Tannous | Freeport | NY | |
| gb | San Bernardino | Soma | Samson Orusa | Clarksville | TN | 3:52:14 |
| dg | Hemet | Fioricet | Samson Orusa | Clarksville | TN | 0:35:14 |
| mk | Portola Hills | Soma | Terrill Brown | Visalia | CA | 5:12:27 |
| mh | Hacienda Height | Soma | Samuel Neil Grief | Chicago | IL | |
| ar | Orville | Soma | Jack Olin | Boca Raton | FL | 3:43:49 |
| jm | Murrieta | Soma | Samuel Neil Grief | Chicago | IL | |
| vg | Santa Fe Springs | Soma | Howard Strassberg | Old Brooksville | NY | 5:00:39 |
| jp | Thermal | Ultram | Samson Orusa | Clarksville | TN | 01:01:25 |
| ts | Sacramento | Soma | Howard Strassberg | Old Brooksville | NY | |
| kr | Quincy | Soma | Samson Orusa | Clarksville | TN | 1:29:02 |
| jb | Willows | Soma | Kareem Tannous | Freeport | NY | 5:19:41 |
| mm | Oceano | Soma | Kareem Tannous | Freeport | NY | |
| ch | Oroville | Soma | Kareem Tannous | Freeport | NY | 12:11:04 |
| gb | Torrance | Soma | Charles Myers | Mishawaka | IN | |
| jk | Concord | Ultram | Irving Harper III | Kihei | HI | 0:31:46 |
| gh | Fresno | Soma | Samson Orusa | Clarksville | TN | 22:50:47 |
| pp | Roseville | Soma | Elaina George | Atlanta | GA | 3:29:12 |
| ar | Mountainview | Soma | Samson Orusa | Clarksville | TN | |
| te | Truckee | Soma | Bob Thompson | West Frankfurt | IL | 5:23:22 |
| jw | Stockton | Soma | Gloria Fong | Delaware | DE | 3:55:23 |
| dw | Concord | Soma | James Frede | Wailuku | HI | |
| ml | San Jose | Ultram | Howard Strassberg | Old Brooksville | NY | 22:27:37 |
| hc | Van Nuys | Soma | Kareem Tannous | Freeport | NY | |
| dk | Stockton | Soma | Samson Orusa | Clarksville | TN | |
| jz | Mill Valley | Fioricet | Samson Orusa | Clarksville | TN | |
| jd | Glendora | Soma | Gloria Fong | Newark | DE | 0:28:02 |
| gr | Lomita | Soma | Samuel Neil Grief | Chicago | IL | |
| ml | Merced | Soma | Samuel Neil Grief | Chicago | IL | |
| pp | Fresno | Soma | Samson Orusa | Clarksville | TN | |
| kg | Pacheco | Soma | Laura Garabedian | Glen Oaks | NY | |
| wb | Tracy | Soma | James Frede | Wailuku | HI | |
| es | Corning | Soma | Samuel Neil Grief | Chicago | IL | |
| as | Temecula | Soma | Charles Myers | Mishawaka | IN | |
| ja | Napa | Soma | Samuel Neil Grief | Chicago | IL | |

CITATION ISSUED ON: April 8, 2011

TOTAL AMOUNT OF FINE(S): \$1,475,000.00

PAYMENT OF FINE(S) DUE BY: May 8, 2011

Exhibit D

Citation No. 2010 48444

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

CITATION AND FINE

| | |
|------------------------|---------------------------------|
| Citation Number | Name, License No |
| CI 2010 48444 | LAN THI TRAN-NGUYEN , RPH 43129 |

JURISDICTION: Bus. & Prof. Code § 4005; CCR, title 16, § 1775;

| VIOLATION CODE SECTION | OFFENSE | AMT OF FINE |
|--|---|--------------------|
| Bus. & Prof. Code § 4306.5/CCR, Title 16, § 1764/Civil Code § 56.10 subd. (a) et seq. | Misuse of education, etc. by pharmacist outside course of practice of pharmacy as Unprofessional Conduct /Unauthorized disclosure of prescription and medical information | \$500.00 |

CONDUCT:

Unauthorized Disclosure and Maintenance of Patient Specific Records- Pharmacist Lan Thi Tran-Nguyen was not in compliance with the Business and Professions Code Section 4306.5 which states unprofessional conduct for a pharmacist includes any of the following: acts or omissions that involve, in whole or in part the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or the act or omission arises in the course of the practice of pharmacy or the ownership, management, administrations, or operation of a pharmacy or other entity licensed by the board and as it relates to the California Code of Regulations 1764 that states no pharmacist shall exhibit or reveal the contents of any prescription with any person other than the patient or his or her authorized representative and Civil Code 56.10(a) that states no provider of health care shall disclose medical information regarding a patient without first obtaining authorization. Specifically between May 2010 to October 2010 while working at Pharmerica located at 11205 Knott Avenue, Suite C in Cypress, pharmacist Lan Thi Tran-Nguyen acted unprofessionally when she accessed, obtained, and removed unauthorized copies of highly confidential patient specific records including prescriptions, from Pharmerica in Cypress even after RPH Nguyen signed the Statement of Confidentiality "HIPAA Privacy & Security" form on 5/20/10 that stated, "If my employment with PharMerica ends, whether voluntarily or involuntarily, I hereby agree not to use or disclose any Health Information to anyone for any reason". This is a violation of pharmacy law.

CITATION ISSUED ON: June 09, 2011

TOTAL AMOUNT OF FINE(S): \$500.00

PAYMENT OF FINE(S) DUE BY: July 09, 2011