

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

In the Matter of the Accusation Against:

Case No. 3912

**BAILEY LIU**  
25 Galilee Lane #3  
San Francisco, CA 94115

**Pharmacy Technician Registration No.**  
**TCH 77630**

Respondent.

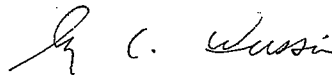
**DECISION AND ORDER**

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

This decision shall become effective on March 16, 2012.

It is so ORDERED on February 15, 2012.

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 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM  
Deputy Attorney General  
4 State Bar No. 214663  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

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9 **DEPARTMENT OF CONSUMER AFFAIRS**  
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Case No. 3912

11 **BAILEY LIU**  
12 **25 Galilee Lane, # 3**  
13 **San Francisco, CA 94115**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

14 **Pharmacy Technician License No. TCH 77630**

15 Respondent.

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

20 PARTIES

21 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought  
22 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,  
23 Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

24 2. Bailey Liu (Respondent) is represented in this proceeding by attorney Tony  
25 Tamburello, whose address is Law Office of Tony Tamburello, 214 Duboce Avenue, San  
26 Francisco, CA 94103-1099.

27 3. On or about September 6, 2007, the Board of Pharmacy issued Pharmacy Technician  
28 License No. TCH 77630 to Bailey Liu (Respondent). The Pharmacy Technician License was in

1 full force and effect at all times relevant to the charges brought in Accusation No. 3912 and will  
2 expire on December 31, 2012, unless renewed.

3 JURISDICTION

4 4. Accusation No. 3912 was filed before the Board of Pharmacy (Board), Department of  
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
6 statutorily required documents were properly served on Respondent on April 11, 2011.  
7 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation  
8 No. 3912 is attached as exhibit A and incorporated by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and understands the  
11 charges in Accusation No. 3912. Respondent has also carefully read, fully discussed with  
12 counsel, and understands the effects of this Stipulated Surrender of License and Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at  
15 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
16 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
17 the attendance of witnesses and the production of documents; the right to reconsideration and  
18 court review of an adverse decision; and all other rights accorded by the California  
19 Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
21 every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation  
24 No. 3912, except that Respondent does not admit the truth of paragraph 21.c. Respondent agrees  
25 that cause exists for discipline and hereby surrenders his Pharmacy Technician License No. TCH  
26 77630 for the Board's formal acceptance.

27 9. Respondent understands that by signing this stipulation he enables the Board to issue  
28 an order accepting the surrender of his Pharmacy Technician License without further process.



ORDER

IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 77630, issued to Respondent Bailey Liu, is surrendered and accepted by the Board of Pharmacy.

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

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

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

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

5. If he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 3912, with the exception of paragraph 21.c., shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

6. Should Respondent apply for licensure or petition for reinstatement, Respondent shall pay the Board its costs of investigation and enforcement totaling \$4,218.00 prior to issuance of a new or reinstated license.


7. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 3912, except paragraph 21.c., shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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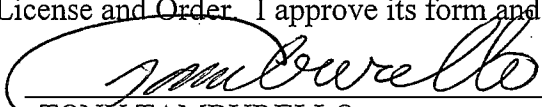
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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Tony Tamburello. I understand the stipulation and the effect it will have on my Pharmacy Technician License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.


DATED: 11/15/11   
BAILEY LIU  
Respondent

I have read and fully discussed with Respondent Bailey Liu the terms and conditions and other matters in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 11.15.11   
TONY TAMBURELLO  
Attorney for Respondent

ENDORSEMENT

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

Dated: 11/22/2011 Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General  
  
JOSHUA A. ROOM  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 3912**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM  
Deputy Attorney General  
4 State Bar No. 214663  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

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9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
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12 In the Matter of the Accusation Against:

Case No. 3912

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14 **25 Galilee Lane, # 3**  
15 **San Francisco, CA 94115**

**ACCUSATION**

**Pharmacy Technician License No. TCH 77630**

Respondent.

16 Complainant alleges:

17  
18 PARTIES

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

21 2. On or about September 6, 2007, the Board of Pharmacy issued Pharmacy Technician  
22 License No. TCH 77630 to Bailey Liu (Respondent). The License was in full force and effect at  
23 all times relevant to the charges herein and will expire on December 31, 2012, unless renewed.

24  
25 JURISDICTION

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





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

5 8. California Code of Regulations, title 16, section 1770, states:

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

12 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous  
13 drug or dangerous device except upon the prescription of an authorized prescriber.

14 10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any  
15 controlled substance, except that furnished upon a valid prescription/drug order.

16 11. Health and Safety Code section 11170 provides that no person shall prescribe,  
17 administer, or furnish a controlled substance for himself or herself.

18 12. Health and Safety Code section 11173, subdivision (a), provides that no person shall  
19 obtain or attempt to obtain controlled substances, or procure or attempt to procure the  
20 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,  
21 or subterfuge; or (2) by the concealment of a material fact.

22 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess  
23 any controlled substance listed in Schedule II (Health and Safety Code section 11055),  
24 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

25 COST RECOVERY

26 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
27 administrative law judge to direct a licentiate found to have committed a violation of the licensing  
28 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.



1           21. The exact number of instances of diversion/theft by Respondent, and the full quantity  
2 of controlled substances or dangerous drugs diverted/stolen, are not known, but in the course of  
3 investigations conducted by Walgreens and by police, the following were reported:

4           a. On or prior to March 15, 2010, one or more supervisors and/or members of the  
5 Walgreens Loss Prevention staff received an anonymous tip stating that Respondent had been  
6 stealing "pain killers" from the stock of Walgreens pharmacies for the past 2-3 years.

7           b. When confronted, Respondent subsequently admitted to Loss Prevention that  
8 he had been diverting/stealing 3-4 **Hydrocodone with APAP 5/500** tablets, once or twice a week,  
9 for the past six (6) months, for his own use. During his interview, Respondent identified three (3)  
10 stores where he had worked as a floater technician and diverted/stole **Hydrocodone with APAP**.  
11 Respondent further admitted to diverting/stealing five (5) tablets of **Viagra**, which he sold for a  
12 total of \$100.00 (\$20.00 for each tablet). Loss Prevention calculated Respondent's admitted theft  
13 to be 192 tablets of **Hydrocodone with APAP 5/500** (retail: \$128.64) and 5 tablets of **Viagra**  
14 (retail; \$115.19), for a total retail value of the admitted theft of \$243.83.

15           c. Subsequent audit(s) by Loss Prevention and/or pharmacy staff of the controlled  
16 substance stocks of seven (7) Walgreens Pharmacy stores at which Respondent had worked as a  
17 pharmacy technician revealed shortages including: 966 tablets **Hydrocodone with APAP 5/500**  
18 at Walgreens #3624 (PHY 44989); 375 tablets **Hydrocodone with APAP 5/500** and 32 tablets  
19 **Hydrocodone with APAP 7.5/500** at Walgreens #3358 (PHY 40652); 324 tablets **Hydrocodone**  
20 **with APAP 10/500** at Walgreens #5599 (PHY 44955); 938 tablets **Hydrocodone with APAP**  
21 **10/500** at Walgreens #3383 (PHY 41649); 1,034 tablets **Hydrocodone with APAP 5/500** at  
22 Walgreens #11385 (PHY 48579); 154 tablets **Hydrocodone with APAP 5/500** and 445 tablets  
23 **Hydrocodone with APAP 10/325** at Walgreens #5487 (PHY 44589); 311 tablets **Hydrocodone**  
24 **with APAP 7.5/500** at Walgreens #3707 (PHY 40791), for a total documented shortage/loss of  
25 approximately 4,579 tablets of **Hydrocodone** drug products where Respondent worked.

26           ///

27           ///

28           ///

1 FIRST CAUSE FOR DISCIPLINE

2 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

3 22. Respondent is subject to discipline under section 4301(f) of the Code, in that  
4 Respondent, as described in paragraphs 19 to 21 above, committed numerous acts involving  
5 moral turpitude, dishonesty, fraud, deceit, or corruption.

6  
7 SECOND CAUSE FOR DISCIPLINE

8 (Self-Administration of Controlled Substance)

9 23. Respondent is subject to discipline under section 4301(h) of the Code, in that  
10 Respondent, as described in paragraphs 19 to 21 above, administered one or more controlled  
11 substances to himself, including **Hydrocodone with APAP** products.

12  
13 THIRD CAUSE FOR DISCIPLINE

14 (Furnishing of Controlled Substance(s))

15 24. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section  
16 4059 of the Code, and/or Health and Safety Code section 11170, in that Respondent, as described  
17 in paragraphs 19 to 21 above, furnished to himself or another, and/or conspired to furnish, and/or  
18 assisted or abetted furnishing of, a controlled substance/dangerous drug, without a prescription.

19  
20 FOURTH CAUSE FOR DISCIPLINE

21 (Possession of Controlled Substance(s))

22 25. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section  
23 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described  
24 in paragraphs 19 to 21 above, possessed, conspired to possess, and/or assisted in or abetted  
25 possession of, a controlled substance, without a prescription.

26 ///

27 ///

28 ///

1 FIFTH CAUSE FOR DISCIPLINE

2 (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

3 26. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,  
4 and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs  
5 19 to 21 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a  
6 controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

7  
8 SIXTH CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct)

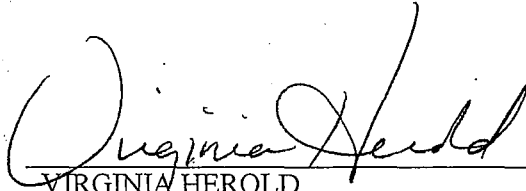
10 27. Respondent is subject to discipline under section 4301 of the Code in that  
11 Respondent, as described in paragraphs 19 to 26 above, engaged in unprofessional conduct.

12  
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 Pharmacy Technician License Number TCH 77630, issued  
17 to Bailey Liu (Respondent);
- 18 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
19 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 20 3. Taking such other and further action as is deemed necessary and proper.

21  
22 DATED: 4/7/11

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

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