

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

In the Matter of the Accusation Against:

Case No. 4237

**TRANG DOAN NGUYEN aka  
TRACY NGUYEN aka  
DOANTRANG THI NGUYEN  
32 Gray Dove  
Irvine, CA 92618**

**Designated Representative License No.  
EXC 17183**

Respondent.

**DECISION AND ORDER**

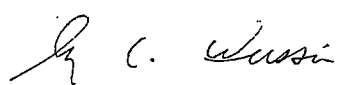
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on 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 DIANE DE KERVOR  
Deputy Attorney General  
4 State Bar No. 174721  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2611  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

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Case No. 4237

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14 **DOANTRANG THI NGUYEN**  
15 **32 Gray Dove**  
**Irvine, CA 92618**

**STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

16 **Designated Representative License No. EXC**  
**17183**

17 Respondent.

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

21 PARTIES

- 22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
23 She brought this action solely in her official capacity and is represented in this matter by Kamala  
24 D. Harris, Attorney General of the State of California, by Diane de Kervor, Deputy Attorney  
25 General.  
26 2. Trang Doan Nguyen aka Tracy Nguyen aka Doantrang Thi Nguyen (Respondent) is  
27 represented in this proceeding by Michael J. Sundstedt, Esq., whose address is 2100 Main Street,  
28 Suite 200, Huntington Beach, CA 92648.





1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
2 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
3 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
4 executed by an authorized representative of each of the parties.

5 15. In consideration of the foregoing admissions and stipulations, the parties agree that  
6 the Board may, without further notice or formal proceeding, issue and enter the following Order:

7 **ORDER**

8 IT IS HEREBY ORDERED that Designated Representative License No. EXC 17183,  
9 issued to Respondent, is surrendered and accepted by the Board of Pharmacy.

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

14 2. Respondent shall lose all rights and privileges as a Designated Representative in  
15 California as of the effective date of the Board's Decision and Order.

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

18 4. If she ever applies for licensure or petitions for reinstatement in the State of  
19 California, the Board shall treat it as a new application for licensure. Respondent must comply  
20 with all the laws, regulations and procedures for licensure in effect at the time the application or  
21 petition is filed, and all of the charges and allegations contained in Accusation No. 4237 shall be  
22 deemed to be true, correct and admitted by Respondent when the Board determines whether to  
23 grant or deny the application or petition.

24 5. Respondent shall pay the agency its costs of investigation and enforcement in the  
25 amount of \$4,862.50 prior to issuance of a new or reinstated license.

26 6. If Respondent should ever apply or reapply for a new license or certification, or  
27 petition for reinstatement of a license, by any other health care licensing agency in the State of  
28 California, all of the charges and allegations contained in Accusation, No. 4237 shall be deemed

1 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any  
2 other proceeding seeking to deny or restrict licensure.

3 7. Respondent may not apply for, or reapply for, or petition for reinstatement of any  
4 license, permit, or registration from the Board for three (3) years from the effective date of this  
5 Decision and Order.

6 ACCEPTANCE

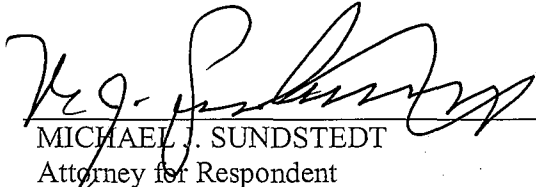
7 I have carefully read the above Stipulated Surrender of License and Order and have fully  
8 discussed it with my attorney, Michael J. Sundstedt. I understand the stipulation and the effect it  
9 will have on my Designated Representative License. I enter into this Stipulated Surrender of  
10 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
11 Decision and Order of the Board of Pharmacy.

12  
13 DATED: 3/29/2013

  
14 TRANG DOAN NGUYEN  
Respondent

15 I have read and fully discussed with Respondent Trang Doan Nguyen the terms and  
16 conditions and other matters contained in this Stipulated Surrender of License and Order. I  
17 approve its form and content.

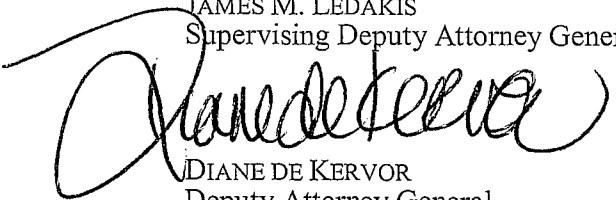
18 DATED: 4-1-13

  
19 MICHAEL J. SUNDSTEDT  
Attorney for Respondent  
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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: Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
  
DIANE DE KERVOR  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 4237**



1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 DIANE DE KERVOR  
Deputy Attorney General  
4 State Bar No. 174721  
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12 **A C C U S A T I O N**

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14 **aka TRACY NGUYEN aka**  
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15 **32 Gray Dove**  
**Irvine, CA 92618**

16 **Designated Representative License No. EXC**  
17 **17183**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about September 9, 2003, the Board of Pharmacy issued Designated  
24 Representative License Number EXC 17183 to Trang Doan Nguyen aka Tracy Nguyen aka  
25 Doantrang Thi Nguyen (Respondent). The Designated Representative License was in full force  
26 and effect at all times relevant to the charges brought herein and will expire on September 1,  
27 2013, unless renewed.  
28



1 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
2 and the board may inquire into the circumstances surrounding the commission of  
3 the crime in order to fix the degree of discipline or to determine if the conviction is  
4 substantially related to the qualifications, functions, and duties of the licensee in  
5 question.

6 As used in this section, "license" includes "certificate," "permit,"  
7 "authority," and "registration."

8 9. Section 4301 of the Code states:

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

13 (a) Gross immorality.

14 . . . .

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

18 . . . .

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

21 . . . .

22 (l) The conviction of a crime substantially related to the qualifications,  
23 functions, and duties of a licensee under this chapter. The record of conviction of a  
24 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
25 States Code regulating controlled substances or of a violation of the statutes of this  
26 state regulating controlled substances or dangerous drugs shall be conclusive  
27 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
28 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 or verdict 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 affirmed on appeal or when an order granting probation is made  
suspending the imposition of sentence, irrespective of a subsequent order under  
Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
dismissing the accusation, information, or indictment.

29 . . . .

30 (o) Violating or attempting to violate, directly or indirectly, or assisting in

1 or abetting the violation of or conspiring to violate any provision or term of this  
2 chapter or of the applicable federal and state laws and regulations governing  
3 pharmacy, including regulations established by the board or by any other state or  
4 federal regulatory agency.

5 (p) Actions or conduct that would have warranted denial of a license.

#### 6 REGULATIONS

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

8 ....

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

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

14 (2) Total criminal record.

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

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

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

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

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

#### 27 COST RECOVERY

28 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
administrative law judge to direct a licentiate 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.

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**FACTS**

13. On September 9, 2003, the Board issued Original Certificate Number EXC 17183 to Respondent. When Respondent submitted her license renewal, she admitted that she had been convicted of a misdemeanor in Alabama related to the pharmaceutical industry. In particular, she reported:

An unscrupulous Alabama pharmaceutical wholesaler sold me pharmaceuticals that were allegedly imported. I pleaded guilty to a misdemeanor of shipping misbranded drugs. No alcohol or DEA controlled substances were involved. I do not do business with this wholesaler anymore.

14. Although the renewal application and subsequent Board Correspondent asked for certified documents related to the arrest, such as police reports, arrest reports, booking reports, complaints, citations, or tickets, as well as certified court documents, such as notice of charges, complaint, or indictment, plea agreements, sentencing orders, probation orders, or judgment, dismissal, probation release, or court discharged, Respondent only included a copy of her sentencing order and probation order.

15. On December 12, 2008, in *USA vs. Trang Doan Nguyen and AQ Pharmaceuticals, Inc.*, Western District Court for Western District of Missouri, Case No. 05-00315-15-CR-W-ODS, Respondent individually and on behalf of her company pled guilty to one count of a violation of 21 U.S.C. 331(a) and 333(a)(1) (introduction into interstate commerce of a misbranded drug), a misdemeanor.

16. The documents that the Board asked for on the reapplication, and which Respondent did not turn over to the Board, reflect the serious and ongoing nature of the conduct that Respondent and her company engaged in that led to the conviction.

17. The Second Superseding Indictment dated January 3, 2007, reflects the role that Respondent, and several co-defendants, served in the fraudulent wholesale of misbranded drugs in the United States. Although some of the conspiracy charges continued as to the other co-defendants, the charges against Respondent were modified by a Superseding Information.

18. The Superseding Information filed on December 11, 2008, by the United States Attorney's Office provided that:

1 Between on or about March 28, 2002, and on or about April 30, 2003, in  
2 Kansas City, Jackson County, within the Western District of Missouri and elsewhere,  
3 the defendants, Trang Doan Nguyen, a/k/a Tracy Nguyen, and AQ Pharmaceuticals,  
4 Inc., introduced, delivered for introduction, and caused the introduction and delivery  
5 for introduction, into interstate commerce of a misbranded drug, as the term drug is  
6 defined in 21 U.S.C. § 321(g)(1), to wit: after receiving from [GS] and [JF] quantities  
7 of Lipitor® and Celebrex® that were not intended or approved for sale in the United  
8 States, along with quantities of counterfeit Lipitor® (collectively referred to as  
9 “drugs” or “the drugs”), said defendants repackaged the drugs in a manner that caused  
10 them to be misbranded pursuant to 21 U.S.C. § 352(a), in that the labeling the  
11 defendants affixed on the repackaged drugs was false and misleading because it did  
12 not disclose that the drugs were counterfeit or not approved for sale in the United  
13 States, and said defendants thereafter sold said drugs and shipped them across state  
14 lines from the State of California to locations in other states, including a location in  
15 Kansas City, Missouri. All in violation of 21 U.S.C. §§ 331(a) and 333(a)(1) and 18  
16 U.S.C. § 2.

17  
18  
19 19. In the Plea Agreement, the parties admitted the facts and allegations as set forth in the  
20 Superseding Information were true and accurate.

21  
22 20. On December 17, 2008, Respondent was sentenced to 5 years probation with certain  
23 terms and conditions as well as a \$50,000 fine.

24  
25 21. On March 2, 2009, Respondent was ordered to pay restitution in the amount of  
26 \$597,420 to Pfizer, Inc. In the Restitution Order, the Court described the scope of the conduct:

27  
28 Based on the evidence introduced at the hearing, the Court finds  
29 Defendants diverted 1,631,400 tablets of Lipitor and 300,000 tablets of Celebrex from  
30 Brazil into the United States.

31  
32 22. On July 22, 2010, in *Doantrang Thi Nguyen aka Trang Doan Nguyen aka Tracy*  
33 *Nguyen and AQ Pharmaceuticals, Inc. Petitioner, v. The Inspector General, Department of*  
34 *Health and Human Services Appeals Board Case No. CR2191 (OI File 7-07-40391-9)*, the  
35 Inspector General (IG) of the Department of Health and Human Services excluded Respondent  
36 and her company from participating in the Medicare, Medicaid, and all federal health care  
37 programs for 13 years. This action was taken pursuant to section 1128(b)(1) of the Social  
38 Security Act because Respondent and her company had been convicted of misdemeanor offenses  
39 relating to fraud, theft, embezzlement, breach of fiduciary responsibility or other financial  
40 misconduct in connection with the delivery of a health care item or service. In particular, upon  
41 review of the plea agreement and other court documents, the Inspector General upheld the

1 exclusion and found no mitigating factors to justify decreasing the period of exclusion, in  
2 particular, the IG noted:

3 Labeling and selling drugs with "false and misleading" labels is fraud.  
4 Drugs are health care items. Petitioners are therefore subject to exclusion under  
section 1128(b)(1).

5 Petitioners were guilty of repackaging and selling counterfeit drugs as  
6 well as drugs not approved for sale in the United States. . . .mislabeling drugs under  
the FDCA is fraudulent.

7 Petitioner refused to comply with reasonable requests for information;  
8 Petitioner Nguyen was reluctant to accept responsibility for her complicity in the  
9 crime; and she 'steadfastly refused to cooperative and instead has tried to suggest that  
she has been victimized by many others, including law enforcement.'

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(December 12, 2008 Criminal Conviction for Introducing Misbranded Drugs Into**  
12 **Interstate Commerce Between 2002 and 2003)**

13 17. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision  
14 (1) of the Code in that Respondent was convicted of a crime substantially related to the  
15 qualifications, functions and duties of a Designated Representative<sup>1</sup> as outlined in paragraphs 12  
16 to 22, above, which are incorporated by reference herein.

17 **SECOND CAUSE FOR DISCIPLINE**  
18 **(Unprofessional Conduct – Gross Immorality)**

19 23. Respondent is subject to disciplinary action under section 4301, subdivision (a), of  
20 the Code in that Respondent engaged in conduct that was grossly immoral as outlined in  
21 paragraphs 12 to 22, above, which are incorporated by reference herein. In particular,  
22 Respondent diverted 1,631,400 tablets of Lipitor and 300,000 tablets of Celebrex from Brazil into  
23 the United States, potentially affecting hundreds of thousands of patients who need these  
24 medications. Counterfeit drugs may be contaminated, or contain the wrong active ingredient, or  
25 the wrong amounts of an active ingredient. They may contain no active ingredients at all. The  
26

27 <sup>1</sup> A Designated Representative is an individual who performs clerical, inventory control,  
28 housekeeping, delivery, maintenance, or similar functions related to the distribution or dispensing  
of dangerous drugs or dangerous devices.

1 drugs may cause unforeseen allergic reactions. Placing such medication into the stream of  
2 commerce, potentially harming hundreds of thousands of sick consumers is grossly immoral.

3 **THIRD CAUSE FOR DISCIPLINE**  
4 **(Unprofessional Conduct – Act Involving Moral Turpitude,  
5 Dishonesty, Fraud, Deceit, or Corruption)**

6 24. Respondent is subject to disciplinary action under section 4301, subdivision (f), of the  
7 Code in that Respondent engaged in conduct that involved moral turpitude, dishonesty, fraud,  
8 deceit, or corruption as outlined in paragraphs 12 to 22, above, which are incorporated by  
9 reference herein. Specifically, labeling and selling drugs with “false and misleading” labels is  
10 fraudulent, dishonest, and corrupt.

11 **FOURTH CAUSE FOR DISCIPLINE**  
12 **(Unprofessional Conduct – Violation of United States Drug Laws)**

13 25. Respondent is subject to disciplinary action under section 4301, subdivision (j), of the  
14 Code in that Respondent engaged in conduct that violated United States drug laws as outlined in  
15 paragraphs 12 to 22, above, which are incorporated by reference herein.

16 **FIFTH CAUSE FOR DISCIPLINE**  
17 **(Unprofessional Conduct – Violation of United States Pharmacy Laws)**

18 26. Respondent is subject to disciplinary action under section 4301, subdivision (o), of  
19 the Code in that Respondent engaged in conduct that violated federal laws governing pharmacy as  
20 outlined in paragraphs 12 to 22, above, which are incorporated by reference herein.

21 **SIXTH CAUSE FOR DISCIPLINE**  
22 **(Unprofessional Conduct – Actions That Would Warrant Denial of a License)**

23 27. Respondent is subject to disciplinary action under section 4301, subdivision (p), of  
24 the Code in that Respondent engaged in actions that would warrant denial of a license as outlined  
25 in paragraphs 12 to 22, above, which are incorporated by reference herein. Specifically,  
26 Respondent engaged in this conduct in 2002 and 2003, before she was licensed by the Board.  
27 Had the Board been aware that she was engaging in the practice of labeling and selling  
28 mislabeled drugs, she would have been denied a license. Respondent and her company were



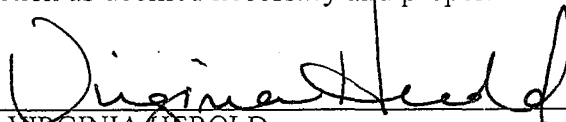
1 convicted of misdemeanor offences relating to fraud in connection with the delivery of a health  
2 care item or service and she has been excluded from participating in the Medicare, Medicaid, and  
3 all federal health care programs for 13 years.

4 **PRAYER**

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

- 7 1. Revoking or suspending Designated Representative License Number EXC 17183,  
8 issued to Trang Doan Nguyen;
- 9 2. Ordering Trang Doan Nguyen to pay the Board of Pharmacy the reasonable costs of  
10 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
11 125.3;
- 12 3. Taking such other and further action as deemed necessary and proper.

13 DATED: 10/10/12



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

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