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

In the Matter of the Accusation Agair	nst:
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Case No. 4238

#### TRISHA THUC NGUYEN

19566 Grandview Circle Huntington Beach, CA 92648

Pharmacist License No. RPH 47287

Respondents.

### **DECISION AND ORDER**

The attached Stipulated Surrender of Pharmacist 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 July 8, 2013.

It is so ORDERED on June 7, 2013.

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

By

STANLEY C. WEISSER

**Board President** 

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5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013	•	
6	Telephone: (213) 897-2660 Facsimile: (213) 897-2804		
7	E-mail: Geoffrey. Ward@doj.ca.gov Attorneys for Complainant	· · · · · · · · · · · · · · · · · · ·	
8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF CA	LIFORNIA	
-11	In the Matter of the Accusation Against:	ase No. 4238	
12	TRISHA THUC NGUYEN		
13 .		TIPULATED SURRENDER OF ICENSE AND ORDER	
14	Respondent.	TOMING AND ORDER	
15-	Respondent.		
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17	IT IS HEREBY STIPULATED AND AGREED by and between the parties in this		
18	proceeding that the following matters are true:		
19	<u>PARTIES</u>		
20	1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.		
21	She brought this action solely in her official capacity and is represented in this matter by Kamala		
22	D. Harris, Attorney General of the State of California, by Geoffrey Ward, Deputy Attorney		
23	General.		
24	2. Trisha Thuc Nguyen (Respondent) is re	presenting herself in this proceeding and has	
25	chosen not to exercise her right to be represented by counsel.		
26	3. On or about August 4, 1994, the Board of Pharmacy issued Pharmacist License No.		
27	RPH 47287 to Trisha Thuc Nguyen (Respondent). The Pharmacist License expired on April 30,		
28	2012 and has not been renewed.		

### JURISDICTION

- 4. Accusation No. 4238 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 4, 2012. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 4238 is attached as Exhibit A and incorporated by reference.
- 5. The Board retains jurisdiction over expired licenses under Business and Professions Code section 118(b).

### ADVISEMENT AND WAIVERS

- 6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 4238. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.
- 7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 8: Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## **CULPABILÍTY**

- 9. Respondent admits the truth of each and every charge and allegation in Accusation No. 4238, agrees that cause exists for discipline and hereby surrenders her Pharmacist License No. RPH 47287 for the Board's formal acceptance.
- 10. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacist License without further process.

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**MITIGATION** 

11. In June 2010, Respondent, through her attorney, wrote a letter to the Board offering to surrender her Pharmacist License while she was under investigation by the federal government. In August 2010, she paid restitution to the Department of Veteran Affairs of \$180,863 for medical supplies she stole from the Department. In December 2010, she agreed to plea guilty to interstate transportation of stolen goods, a violation of United States Code, Title 18, Section 2314. As part of the plea agreement, she agreed to surrender her California Pharmacist License and to refrain from practicing as a pharmacist. At that time, she wrote to the Board herself offering to surrender her license and sending in her wall license. The Board wrote her in January 2011 indicating that it would not accept her license surrender and would be taking formal disciplinary action.

## **CONTINGENCY**

- 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees 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 Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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 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.
- 13. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 14. This Stipulated Surrender of License 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 of License 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.

15. 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:

#### ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 47287, issued to Respondent Trisha Thuc Nguyen, is surrendered and accepted by the Board of Pharmacy.

- 1. The surrender of Respondent's Pharmacist 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 pharmacist in California as of the effective date of the Board's Decision and Order.
- 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.
- 4. If she 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 may not apply for licensure with the Board until 3 years have elapsed since the effective date of this order. Respondent must comply with all the 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. 4238 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.
- 5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$ 1,172.50 prior to issuance of a new or reinstated license.
- 6. 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. 4238 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. 2 3 ACCEPTANCE I have carefully read the Stipulated Surrender of License and Order. I understand the 5 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated 6 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound 7 by the Decision and Order of the Board of Pharmacy. 8 9 DATED: 10 TRISHA THUC NGUYEN 11 Respondent 12 ENDORSEMENT 13 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted 14 for consideration by the Board of Pharmacy of the Department of Consumer Affairs. 15 Dated: Respectfully submitted, 16 KAMALA D. HARRIS 17 Attorney General of California KAREN B. CHAPPELLE 18 Supervising Deputy Attorney General 19 20 GEOFFREY WARD 21 Deputy Attorney General Attorneys for Complainant 22 23 24 LA2012602084 51139397.doc 25 26 27 28

Exhibit A

Accusation No. 4238

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1	KAMALA D. HARRIS Attorney General of California		
2	KAREN B. CHAPPELLE Supervising Deputy Attorney General		
3	GEOFF WARD Deputy Attorney General		
4	State Bar No. 246437 300 So. Spring Street, Suite 1702		
5	Los Angeles, CA 90013 Telephone: (213) 897-2660		
6	Facsimile: (213) 897-2804		
7	Attorneys for Complainant		
8	BEFORE THE BOARD OF PHARMACY		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10	STATE OF		
11	In the Matter of the Accusation Against:	Case No. 4238	
12	TRISHA THUC NGUYEN 2275 Huntington Drive 46		
13	San Marino, CA 91108	ACCUSATION	
14	Pharmacist License No. RPH 47287		
15	Respondent.		
16		<b>.</b>	
17	Complainant alleges:		
18	PAL	RTIES	
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 (Board).		
21	2. On or about August 4, 1994, the Board issued Pharmacist License No. RPH 47287 to		
22	Trisha Thuc Nguyen (Respondent). The Pharmacist License expired on April 30, 2012 and has		
23	not been renewed.		
24	JURISI	DICTION	
25	3. This Accusation is brought before the	ne Board of Pharmacy (Board), under the	
26	authority of the following laws. All section references are to the Business and Professions Code		
27	unless otherwise indicated.		
28	4. Section 118, subdivision (b), provid	es that the suspension, expiration, surrender,	

cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

#### STATUTES

- 5. Section 490 authorizes the Board to discipline licensees for criminal convictions that are substantially related to the licensed profession.
- 6. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.
- 7. Section 4301 authorizes the Board to discipline licensees for unprofessional conduct and defines certain categories of unprofessional conduct:

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

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

"(1) 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 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."

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#### REGULATIONS

8. California Code of Regulations, title 16, section 1770, provides criteria for determining when a crime is substantially related to the practice of pharmacy:

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

#### COST RECOVERY

9. Section 125.3 states, 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.

### FIRST CAUSE FOR DISCIPLINE

### (Conviction of a Substantially-Related Crime)

- 10. Respondent is subject to disciplinary action under sections 490, and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a pharmacist, as follows:
- a. On or about December 2, 2010, after pleading guilty, Respondent was convicted of one felony count of violating Title 18, United States Code section 2314 [interstate transportation of more than \$5,000 in stolen property], in the criminal proceeding entitled *United States v. Trisha Thuc Nguyen* (U.S. District Ct. Central District, 2010, No. CR10-1304). The court placed Respondent on probation for a period of three years, and fined her.
- b. In her plea agreement, Respondent admitted that from May 2005 to January 2010 she stole over \$180,000 in insulin test strips from her employer, the Department of Veteran Affairs and shipped them to individuals in other states, who paid her over \$180,000 in return.
- c. In her plea agreement, Respondent agreed to pay restitution and to surrender her pharmacist license to the Board.

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## SECOND CAUSE FOR DISCIPLINE

## (Acts Involving Moral Turpitude, Dishonesty, Fraud,

## Deceit and/or Corruption)

Respondent is subject to disciplinary action under section 4301, subdivision (f), in that Respondent was convicted of a crime involving moral turpitude, dishonesty, deceit, and corruption. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 10 and its subdivisions as though set forth fully.

#### PRAYER

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

- 1. Revoking or suspending Pharmacist License No. RPH 47287, issued to Trisha Thuc Nguyen;
- 2. Ordering Trisha Thuc Nguyen to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
  - 3. Taking such other and further action as deemed necessary and proper.

Executive Officer

Board of Pharmacy

Department of Consumer Affairs

State of California

Complainant