

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

In the Matter of the Accusation Against:

Case No. 4537

HARRY WONG
7624 Vicky Ave.,
Canoga Park, CA 91304
Pharmacist No. RPH 42747

Respondent.

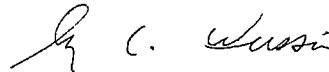
DECISION AND ORDER

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

This decision shall become effective on May 6, 2015.

It is so ORDERED on April 29, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER, Board President

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 KRITHTHIKA VASUDEVAN
Deputy Attorney General
4 State Bar No. 247590
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 4537

11 **HARRY WONG**
12 **7624 Vicky Ave.,**
13 **Canoga Park, CA 91304**
Pharmacist No. RPH 42747

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

14 Respondent.

15
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
17 entitled proceedings that the following matters are true:

18 **PARTIES**

19 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy
20 (Board). She brought this action solely in her official capacity and is represented in this matter by
21 Kamala D. Harris, Attorney General of the State of California, by Kriththika Vasudevan, Deputy
22 Attorney General.

23 2. Respondent Harry Wong (Respondent) is represented in this proceeding by attorney
24 Armond Marcarian, whose address is: Marcarian Law Firm, 31111 Agoura Road, Suite 260
25 Westlake Village, California 91361.

26 3. On or about August 8, 1989, the Board issued Pharmacist No. RPH 42747 to
27 Respondent. The Permit was in full force and effect at all times relevant to the charges brought
28 herein and will expire on September 30, 2016, unless renewed.

1 **JURISDICTION**

2 4. Accusation No. 4537 was filed before the Board, and is currently pending against
3 Respondent. The Accusation and all other statutorily required documents were properly served
4 on Respondent on December 3, 2013. Respondent timely filed his Notice of Defense contesting
5 the Accusation.

6 5. A copy of Accusation No. 4537 is attached as exhibit A and incorporated herein by
7 reference.

8 **ADVISEMENT AND WAIVERS**

9 6. Respondent has carefully read, fully discussed with counsel, and understands the
10 charges and allegations in Accusation No. 4537.

11 7. Respondent has also carefully read, fully discussed with counsel, and understands the
12 effects of this Stipulated Settlement and Disciplinary Order.

13 8. 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 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 **CULPABILITY**

23 10. Respondent understands that the charges and allegations in the Accusation, if proven
24 at hearing, constitute cause for imposing discipline on his license.

25 11. For the purpose of resolving the Accusation without the expense and uncertainty of
26 further proceedings, Respondent agrees that, at a hearing Complainant could establish a factual
27 basis for the charges in the Accusation and that those charges constitute cause for discipline.

28

1 Respondent hereby gives up his right to contest that cause for discipline exists based on those
2 charges.

3 12. Respondent agrees that by signing this stipulation, his Pharmacist License is subject
4 to discipline and he agrees to be bound by the Board's probationary terms as set forth in the
5 Disciplinary Order below.

6 CONTINGENCY

7 13. This stipulation shall be subject to approval by the Board. Respondent understands
8 and agrees that counsel for Complainant and the staff of the Board may communicate directly
9 with the Board regarding this stipulation and settlement, without notice to or participation by
10 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
11 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
12 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
13 the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
14 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
15 be disqualified from further action by having considered this matter.

16 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
17 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
18 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

28 //

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 42747 issued to Respondent
3 Harry Wong (Respondent) is revoked. However, the revocation is stayed and Respondent is
4 placed on probation for three (3) years on the following terms and conditions.

5 1. **Obey All Laws**

6 Respondent shall obey all state and federal laws and regulations.

7 Respondent shall report any of the following occurrences to the board, in writing, within
8 seventy-two (72) hours of such occurrence:

- 9 • an arrest or issuance of a criminal complaint for violation of any provision of the
10 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
11 substances laws
- 12 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
13 criminal complaint, information or indictment
- 14 • a conviction of any crime
- 15 • discipline, citation, or other administrative action filed by any state or federal agency
16 which involves respondent's pharmacist license or which is related to the practice of
17 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
18 for any drug, device or controlled substance.

19 Failure to timely report such occurrence shall be considered a violation of probation.

20 2. **Report to the Board**

21 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
22 designee. The report shall be made either in person or in writing, as directed. Among other
23 requirements, respondent shall state in each report under penalty of perjury whether there has
24 been compliance with all the terms and conditions of probation. Failure to submit timely reports
25 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
26 in submission of reports as directed may be added to the total period of probation. Moreover, if
27 the final probation report is not made as directed, probation shall be automatically extended until
28 such time as the final report is made and accepted by the board.

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3. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

Respondent shall cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his probation. Failure to cooperate shall be considered a violation of probation.

5. Continuing Education

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the board or its designee.

6. Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 4537 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 4537, and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions of the decision in case number 4537 in advance

1 of the respondent commencing work at each licensed entity. A record of this notification must be
2 provided to the board upon request.

3 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
4 (15) days of respondent undertaking any new employment by or through a pharmacy employment
5 service, respondent shall cause his direct supervisor with the pharmacy employment service to
6 report to the board in writing acknowledging that he has read the decision in case number 4537
7 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
8 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

9 Failure to timely notify present or prospective employer(s) or to cause that/those
10 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
11 probation.

12 "Employment" within the meaning of this provision shall include any full-time,
13 part-time, temporary, relief or pharmacy management service as a pharmacist or any
14 position for which a pharmacist license is a requirement or criterion for employment,
15 whether the respondent is an employee, independent contractor or volunteer.

16 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
17 **Designated Representative-in-Charge, or Serving as a Consultant**

18 During the period of probation, Respondent shall not supervise any intern pharmacist, be
19 the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the
20 board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
21 unauthorized supervision responsibilities shall be considered a violation of probation.

22 **8. Reimbursement of Board Costs**

23 As a condition precedent to successful completion of probation, respondent shall pay to the
24 board its costs of investigation and prosecution in the amount of \$6,801.30. Respondent shall be
25 permitted to make payments in accordance with a payment plan approved by the Board. There
26 shall be no deviation from this schedule absent prior written approval by the board or its designee.
27 Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.
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1 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
2 reimburse the board its costs of investigation and prosecution.

3 **9. Probation Monitoring Costs**

4 Respondent shall pay any costs associated with probation monitoring as determined by the
5 board each and every year of probation. Such costs shall be payable to the board on a schedule as
6 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
7 be considered a violation of probation.

8 **10. Status of License**

9 Respondent shall, at all times while on probation, maintain an active, current license with
10 the board, including any period during which suspension or probation is tolled. Failure to
11 maintain an active, current license shall be considered a violation of probation.

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

16 **11. License Surrender While on Probation/Suspension**

17 Following the effective date of this decision, should respondent cease practice due to
18 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
19 respondent may tender his license to the board for surrender. The board or its designee shall have
20 the discretion whether to grant the request for surrender or take any other action it deems
21 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
22 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
23 record of discipline and shall become a part of the respondent's license history with the board.

24 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
25 the board within ten (10) days of notification by the board that the surrender is accepted.
26 Respondent may not reapply for any license from the board for three (3) years from the effective
27 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
28

1 of the date the application for that license is submitted to the board, including any outstanding
2 costs.

3 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
4 **Employment**

5 Respondent shall notify the board in writing within ten (10) days of any change of
6 employment. Said notification shall include the reasons for leaving, the address of the new
7 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
8 shall further notify the board in writing within ten (10) days of a change in name, residence
9 address, mailing address, or phone number.

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

12 **13. Tolling of Probation**

13 Except during periods of suspension, respondent shall, at all times while on probation, be
14 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.
15 Any month during which this minimum is not met shall toll the period of probation, i.e., the
16 period of probation shall be extended by one month for each month during which this minimum is
17 not met. During any such period of tolling of probation, respondent must nonetheless comply
18 with all terms and conditions of probation.

19 Should respondent, regardless of residency, for any reason (including vacation) cease
20 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,
21 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
22 must further notify the board in writing within ten (10) days of the resumption of practice. Any
23 failure to provide such notification(s) shall be considered a violation of probation.

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

27 "Cessation of practice" means any calendar month during which respondent is
28 not practicing as a pharmacist for at least 40 hours, as defined by Business and

1 Professions Code section 4000 et seq . "Resumption of practice" means any calendar
2 month during which respondent is practicing as a pharmacist for at least 40 hours as a
3 pharmacist as defined by Business and Professions Code section 4000 et seq.

4 **14. Violation of Probation**

5 If a respondent has not complied with any term or condition of probation, the board shall
6 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
7 all terms and conditions have been satisfied or the board has taken other action as deemed
8 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
9 to impose the penalty that was stayed.

10 If respondent violates probation in any respect, the board, after giving respondent notice
11 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
12 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
13 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
14 a petition to revoke probation or an accusation is filed against respondent during probation, the
15 board shall have continuing jurisdiction and the period of probation shall be automatically
16 extended until the petition to revoke probation or accusation is heard and decided.

17 **15. Completion of Probation**

18 Upon written notice by the board or its designee indicating successful completion of
19 probation, respondent's license will be fully restored.

20 **16. No Ownership of New Licensed Premises**

21 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve
22 as a manager, administrator, member, officer, director, trustee, associate, or partner of any
23 additional business, firm, partnership, or corporation licensed by the board. If respondent
24 currently owns or has any legal or beneficial interest in, or serve as a manager, administrator,
25 member, officer, director, trustee, associate, or partner of any business, firm, partnership, or
26 corporation currently or hereinafter licensed by the board, respondent may continue to serve in
27 such capacity or hold that interest, but only to the extent of that position or interest as of the
28 effective of this decision. Violation of this restriction shall be considered a violation of probation.

1 **17. Remedial Education**

2 Within sixty (60) calendar days of the effective date of this decision, respondent shall
3 submit to the Board or its designee, for prior approval, an appropriate program of remedial
4 education related to operational management and compounding. The program shall consist of at
5 least ten (10) units. The first five (5) units must be completed by the end of the first year of
6 probation. All remedial education shall be in addition to, and shall not be credited toward,
7 continuing education (CE) courses used for license renewal purposes. Failure to timely submit or
8 complete the approved remedial education shall be considered a violation of probation. The
9 period of probation will be automatically extended until such remedial education is successfully
10 completed and written proof, in a form acceptable to the board, is provided to the board or its
11 designee. Following the completion of each course, the board or its designee may require the
12 respondent, at his expense, to take an approved examination to test the respondent's knowledge of
13 the course. If respondent does not achieve a passing score on the examination, this failure shall be
14 considered a violation of probation. Any such examination failure shall require respondent to take
15 another course approved by the board on the same subject area.

16 **18. Supervised Practice**

17 During the period of probation, respondent shall practice only under the supervision of a
18 licensed pharmacist not on probation with the board. Upon and after the effective date of this
19 decision, respondent shall not practice pharmacy and his license shall be automatically
20 suspended until a supervisor is approved by the board or its designee. The supervision shall be, as
21 required by the board or its designee, either:

22 Continuous - At least 75% of a work week

23 Substantial - At least 50% of a work week

24 Partial - At least 25% of a work week

25 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

26 Within thirty (30) days of the effective date of this decision, respondent shall have his supervisor
27 submit notification to the board in writing stating that the supervisor has read the decision in case
28 number 4537 and is familiar with the required level of supervision as determined by the board or

1 its designee. It shall be the respondent's responsibility to ensure that his employer(s), pharmacist-
2 in-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Failure to cause
3 the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the
4 board shall be considered a violation of probation. If respondent changes employment, it shall be
5 the respondent's responsibility to ensure that his employer(s), pharmacist-in-charge and/or
6 supervisor(s) submit timely acknowledgement(s) to the board. Respondent shall have his new
7 supervisor, within fifteen (15) days after employment commences, submit notification to the
8 board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in
9 case number 4537 and is familiar with the level of supervision as determined by the board.
10 Respondent shall not practice pharmacy and his license shall be automatically suspended until the
11 board or its designee approves a new supervisor. Failure to cause the direct supervisor and the
12 pharmacist-in-charge to submit timely acknowledgements to the board shall be considered a
13 violation of probation.

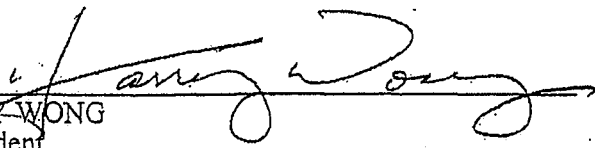
14 Within ten (10) days of leaving employment, respondent shall notify the board in writing.

15 Subject to the above restrictions, respondent may continue to own or hold an interest in any
16 licensed premises in which he holds an interest at the time this decision becomes effective unless
17 otherwise specified in this order.

18 ACCEPTANCE

19 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
20 discussed it with my attorney, Armond Marcarian. I understand the stipulation and the effect it
21 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
22 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
23 of the Board of Pharmacy.

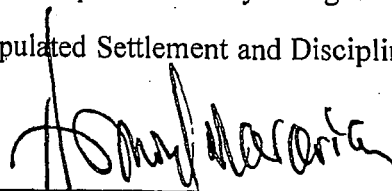
24
25 DATED: 3/13/15

26 
HARRY WONG
Respondent

1 I have read and fully discussed with Respondent Harry Wong the terms and conditions and
2 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its
3 form and content.

4 DATED:

March 13, 2015



ARMOND MARCARIAN
Attorney for Respondent

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10 **ENDORSEMENT**

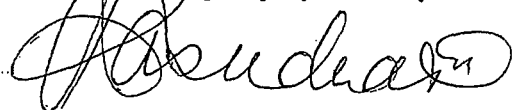
11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
12 submitted for consideration by the Board of Pharmacy.

13 Dated:

March 13, 2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General



KRITHTHIKA VASUDEVAN
Deputy Attorney General
Attorneys for Complainant

Exhibit A.

Accusation No. 4537

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 KRITHTHIKA VASUDEVAN
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6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10 In the Matter of the Accusation Against:

Case No. 4537

11 **VI PHARMACY, INC.; MARYA KHALIL;**
12 **HARRY P. WONG**
13 **1558 10th Street, Ste. B**
Santa Monica, CA 90401

A C C U S A T I O N

14 **Permit No. PHY 50560,**

15 **and**

16 **HARRY WONG**

17 **7624 Vicky Ave.,**
18 **Canoga Park, CA 91304**

19 **Pharmacist-In-Charge No. RPH 42747**

20 Respondents.

21
22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about April 4, 2011, the Board issued Permit Number PHY 50560 to Vi
27 Pharmacy, Inc.; Marya Khalil (Respondent Pharmacy). The Permit was in full force and effect at
28 all times relevant to the charges brought herein and will expire on April 1, 2014, unless renewed.

1 3. On or about August 8, 1989, the Board issued Pharmacist-In-Charge Number RPH
2 42747 to Harry Wong (Respondent Wong). The Permit was in full force and effect at all times
3 relevant to the charges brought herein and will expire on September 30, 2014, unless renewed.

4 **JURISDICTION**

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

8 **STATUTORY PROVISIONS**

9 5. Section 118 states:

10 "(a) The withdrawal of an application for a license after it has been filed with a board in the
11 department shall not, unless the board has consented in writing to such withdrawal, deprive the
12 board of its authority to institute or continue a proceeding against the applicant for the denial of
13 the license upon any ground provided by law or to enter an order denying the license upon any
14 such ground.

15 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
16 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
17 order of a court of law, or its surrender without the written consent of the board, shall not, during
18 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
19 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
20 provided by law or to enter an order suspending or revoking the license or otherwise taking
21 disciplinary action against the licensee on any such ground.

22 "(c) As used in this section, 'board' includes an individual who is authorized by any
23 provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,'
24 'registration,' and 'permit.'"

25 6. Section 4081, subsection (a), states:

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

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

7 7. Section 4104, subsection (b), states:

8 “Every pharmacy shall have written policies and procedures for addressing chemical,
9 mental, or physical impairment, as well as theft, diversion, or self-use of dangerous drugs, among
10 licensed individuals employed by or with the pharmacy.”

11 8. Section 4113, subsection (b), states:

12 “The pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all
13 state and federal laws and regulations pertaining to the practice of pharmacy.”

14 9. Section 4300 of the Code states:

15 “(a) Every license issued may be suspended or revoked.

16 “(b) The board shall discipline the holder of any license issued by the board, whose default
17 has been entered or whose case has been heard by the board and found guilty, by any of the
18 following methods:

19 “(1) Suspending judgment.

20 “(2) Placing him or her upon probation.

21 “(3) Suspending his or her right to practice for a period not exceeding one year.

22 “(4) Revoking his or her license.

23 “(5) Taking any other action in relation to disciplining him or her as the board in its
24 discretion may deem proper.

25 “. . . .”

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1 10. Section 4300.1 of the Code states:

2 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
3 operation of law or by order or decision of the board or a court of law, the placement of a license
4 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
5 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
6 proceeding against, the licensee or to render a decision suspending or revoking the license."

7 11. Section 4301 of the Code states:

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

11 "...."

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

16 "...."

17 12. Section 4116 of the Code provides:

18 "(a) No person other than a pharmacist, an intern pharmacist, an authorized officer of the
19 law, or a person authorized to prescribe shall be permitted in that area, place, or premises
20 described in the license issued by the board wherein controlled substances or dangerous drugs or
21 dangerous devices are stored, possessed, prepared, manufactured, derived, compounded,
22 dispensed, or repackaged. However, a pharmacist shall be responsible for any individual who
23 enters the pharmacy for the purposes of receiving consultation from the pharmacist or performing
24 clerical, inventory control, housekeeping, delivery, maintenance, or similar functions relating to
25 the pharmacy if the pharmacist remains present in the pharmacy during all times as the authorized
26 individual is present."

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1 13. Section 4342 of the Code, subsection (a), states:

2 "The board may institute any action or actions as may be provided by law and that, in its
3 discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not
4 conform to the standard and tests as to quality and strength, provided in the latest edition of the
5 United States Pharmacopoeia or the National Formulary, or that violate any provision of the
6 Sherman Food, Drug and Cosmetic Law"

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

10 REGULATORY PROVISIONS

11 15. California Code of Regulations, title 16, section 1711, subsection (a), states:

12 "Each pharmacy shall establish or participate in an established quality assurance program
13 which documents and assesses medication errors to determine cause and an appropriate response
14 as part of a mission to improve the quality of pharmacy service and prevent errors."

15 16. California Code of Regulations, title 16, section 1714, subsection (d), states:

16 "Each pharmacist while on duty shall be responsible for the security of the prescription
17 department, including provisions for effective control against theft or diversion of dangerous
18 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy
19 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist."

20 17. California Code of Regulations, title 16, section 1714.1, states:

21 "This section is to ensure that pharmacists are able to have duty free breaks and meal
22 periods to which they are entitled under Section 512 of the Labor Code and the orders of the
23 Industrial Welfare Commission, without unreasonably impairing the ability of a pharmacy to
24 remain open.

25

26 (e) The temporary absence authorized by this section shall be limited to the minimum
27 period authorized for pharmacists by section 512 of Labor Code or orders of the Industrial
28

1 Welfare Commission, and any meal shall be limited to 30 minutes. The pharmacist who is on
2 break shall not be required to remain in the pharmacy area during the break period.

3”

4 18. California Code of Regulations, title 16, section 1715, states:

5 “(a) The pharmacist-in-charge of each pharmacy as defined under section 4029 or section
6 4037 of the Business and Professions Code shall complete a self-assessment of the pharmacy's
7 compliance with federal and state pharmacy law. The assessment shall be performed before July 1
8 of every odd-numbered year. The primary purpose of the self-assessment is to promote
9 compliance through self-examination and education.

10 (b) In addition to the self-assessment required in subdivision (a) of this section, the
11 pharmacist-in-charge shall complete a self-assessment within 30 days whenever:

12 (1) A new pharmacy permit has been issued, or

13 (2) There is a change in the pharmacist-in-charge, and he or she becomes the new
14 pharmacist-in-charge of a pharmacy.

15 (3) There is a change in the licensed location of a pharmacy to a new address.

16 (c) The components of this assessment shall be on Form 17M-13 (Rev. 01/11) entitled
17 “Community Pharmacy Self-Assessment Hospital Outpatient Pharmacy Self-Assessment” and on
18 Form 17M-14 (Rev. 01/11) entitled “Hospital Pharmacy Self-Assessment” which are hereby
19 incorporated by reference to evaluate compliance with federal and state laws and regulations.

20 (d) Each self-assessment shall be kept on file in the pharmacy for three years after it is
21 performed.”

22 19. California Code of Regulations, title 16, section 1716, states:

23 “Pharmacists shall not deviate from the requirements of a prescription except upon the
24 prior consent of the prescriber or to select the drug product in accordance with Section 4073 of
25 the Business and Professions Code .

26 Nothing in this regulation is intended to prohibit a pharmacist from exercising commonly-
27 accepted pharmaceutical practice in the compounding or dispensing of a prescription.”

28 //

1 20. California Code of Regulations, title 16, section 1735.2, subsection (h), states:

2 “Every compounded drug product shall be given an expiration date representing the date
3 beyond which, in the professional judgment of the pharmacist performing or supervising the
4 compounding, it should not be used. This “beyond use date” of the compounded drug product
5 shall not exceed 180 days from preparation or the shortest expiration date of any component in
6 the compounded drug product, unless a longer date is supported by stability studies of finished
7 drugs or compounded drug products using the same components and packaging. Shorter dating
8 than set forth in this subsection may be used if it is deemed appropriate in the professional
9 judgment of the responsible pharmacist.”

10 21. California Code of Regulations, title 16, section 1735.4, subsection (b), states:

11 “A statement that the drug has been compounded by the pharmacy shall be included on the
12 container or on the receipt provided to the patient.”

13 22. California Code of Regulations, title 16, section 1735.6, subsection (a), states:

14 “Any pharmacy engaged in compounding shall maintain written documentation regarding
15 the facilities and equipment necessary for safe and accurate compounded drug products. Where
16 applicable, this shall include records of certification(s) of facilities or equipment.”

17 23. California Code of Regulations, title 16, section 1735.8, states:

18 “....

19 (c) The quality assurance plan shall include written standards for qualitative and
20 quantitative integrity, potency, quality, and labeled strength analysis of compounded drug
21 products. All qualitative and quantitative analysis reports for compounded drug products shall be
22 retained by the pharmacy and collated with the compounding record and master formula.

23 (d) The quality assurance plan shall include a written procedure for scheduled action in the
24 event any compounded drug product is ever discovered to be below minimum standards for
25 integrity, potency, quality, or labeled strength.”

26 24. California Code of Regulations, title 16, section 1793.7, subsection (d), states:

27 “Any pharmacy employing or using a pharmacy technician shall develop a job description
28 and written policies and procedures adequate to ensure compliance with the provisions of Article

1 11 of this Chapter, and shall maintain, for at least three years from the time of making, records
2 adequate to establish compliance with these sections and written policies and procedures.”

3 25. Code of Federal Regulations, title 21, section 1304.11, subsection (c), states:

4 “Biennial inventory date. After the initial inventory is taken, the registrant shall take a new
5 inventory of all stocks of controlled substances on hand at least every two years. The biennial
6 inventory may be taken on any date which is within two years of the previous biennial inventory
7 date.”

8 COST RECOVERY

9 26. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
10 administrative law judge to direct a licentiate found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
13 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
14 included in a stipulated settlement.

15 DRUGS

16 27. The following drugs are referenced herein:

17

18 BRAND NAME	19 GENERIC NAME	20 DANGERO US DRUG PER Code Section 4022	21 CONTROLLED SUBSTANCE PER Health and Safety Code (HSC)	22 INDICATION FOR USE
23 Vi Peel	24 Trichloroacetic acid, salicylic acid, reinoic acid, phenol, asorbic acid	25 Yes	26 No	27 Topical Skin Peel
28 Vi Peel Acne	Trichloroacetic acid, salicylic acid, retinoic acid, phenol, ascorbic acid, benzyl peroxide, H hydrocortisone, kojic Acid	Yes	No	Topical Skin Peel
Ultra A	Retinoic acid, ascorbic acid, vitamin e	Yes	No	Topical Skin Peel

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Respondents Pharmacy and Wong: Pharmacist Absent for More Than Thirty (30)**
3 **Minutes)**

4 28. Respondents Pharmacy and Wong are subject to disciplinary action under section
5 4301, subdivision (o), for violating California Code of Regulations section 1714.1, subsection (e),
6 in that the pharmacist was absent for more than thirty (30) minutes from the pharmacy. The
7 circumstances are as follows:

8 a. On or about May 17, 2012, Respondent Wong was in charge of Respondent
9 Pharmacy located at 1558 10th Street # B, in Santa Monica, when a Board inspector found that
10 the pharmacy was operating without a pharmacist from at least 11:45 am till 12:30 p.m., when
11 Respondent Wong arrived.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Respondents Pharmacy and Wong: Failure to Develop Quality Assurance Policies)**

14 29. Respondents Pharmacy and Wong are subject to disciplinary action under section
15 4301, subdivision (o), for violating California Code of Regulations section 1711, subsection (a),
16 in that they failed to establish a quality assurance program, which documents and assesses
17 medication errors. The circumstances are as follows:

18 a. On or about May 17, 2012, Respondent Wong was in charge of Respondent
19 Pharmacy located at 1558 10th Street # B, in Santa Monica, and did not have a quality assurance
20 program to document and assess medication errors.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Respondents Pharmacy and Wong: Unlabeled Compounded Drugs in Stock)**

23 30. Respondents Pharmacy and Wong are subject to disciplinary action under section
24 4301, subdivision (o), for violating Business and Professions Code section 4342, subsection (a),
25 in that there were unlabeled compounded drugs in stock. The circumstances are as follows:

26 a. On or about May 17, 2012, Respondent Wong was in charge of Respondent
27 Pharmacy located at 1558 10th Street # B, in Santa Monica, when an investigation found
28

1 unlabeled (no drug name, strength, lot number, or expiration date) compounded amber colored
2 liquids in the refrigerator and on the prescription counter.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Respondents Pharmacy and Wong: Compounded Drug Expiration Dating)**

5 31. Respondents Pharmacy and Wong are subject to disciplinary action under section
6 4301, subdivision (o), for violating California Code of Regulations section 1735.2, subsection (h),
7 in that the pharmacy had compounded drug products that had been there longer than the allowable
8 180 days from preparation of the drug or the shortest expiration date of any of the components
9 used to compound the drug. The circumstances are as follows:

10 a. On or about May 17, 2012, Respondent Wong was in charge of Respondent
11 Pharmacy located at 1558 10th Street # B, in Santa Monica, when the pharmacy had in stock Vi
12 Peel Lot #E0412A compounded on May 4, 2012 with a given final expiration date of May 2013
13 (one (1) year) when the ingredients in the drug - Trichloroacetic acid expired on February 28,
14 2013, and ingredient Ethyl alcohol expired on May 31, 2013 (before the labeled expiration date).

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Respondents Pharmacy and Wong: Failure to Maintain Security of Dangerous Drugs)**

17 32. Respondent Pharmacy and Respondent Wong are subject to disciplinary action under
18 Code sections 4301, subdivisions (j) and (o), and 4116, subdivision (a), in conjunction with
19 California Code of Regulations section 1714, subdivision (d), in that Respondents failed to ensure
20 that the area where dangerous drugs was stored, possessed, prepared, manufactured, derived,
21 compounded, disposed or repackaged was restricted to a pharmacist, and that a pharmacist
22 remained present when other individuals were present. The circumstances are as follows:

23 a. On or about May 17, 2012, Respondent Wong was in charge of Respondent
24 Pharmacy located at 1558 10th Street # B, in Santa Monica, when compounded drug Ultra A
25 cream and prescription chemical Ascorbyl Palmitate were found stored in refrigerators outside the
26 pharmacy.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Respondents Pharmacy and Wong: End Product Analysis on Compounded Drug and**
3 **Recall Action Plan)**

4 33. Respondents Pharmacy and Wong are subject to disciplinary action under section
5 4301, subdivision (o), for violating California Code of Regulations section 1735.8, subsection (c)
6 and (d), in that the pharmacy failed to analyze the compounded drug products for integrity,
7 potency, quality and strength as labeled on the product. There was no written procedure for action
8 in the event any compounded drug was discovered to not meet the minimum standards of
9 integrity, potency, quality, or strength of the compounded product. . The circumstances are as
10 follows:

11 a. On or about October 17, 2012, Respondent Wong was in charge of Respondent
12 Pharmacy located at 1558 10th Street # B, in Santa Monica, when the pharmacy did not have any
13 end product analysis for its compounded products and did not have a written action plan for
14 recalling products that did not meet the integrity, potency, quality or strength standards as on the
15 labeled product.

16 **SEVENTH CAUSE FOR DISCIPLINE**

17 **(Respondents Pharmacy and Wong: Failure to Document Calibration and Maintenance of**
18 **Compounding Equipment)**

19 34. Respondents Pharmacy and Wong are subject to disciplinary action under section
20 4301, subdivision (o), for violating California Code of Regulations section 1735.6, subsection (a),
21 in that there was no documentation in regards to the maintenance, calibration, and certification of
22 all the compounding equipment. The circumstances are as follows:

23 a. On or about October 17, 2012, Respondent Wong was in charge of Respondent
24 Pharmacy located at 1558 10th Street # B, in Santa Monica, when he failed to document the
25 cleaning, calibration, tube changing, and maintenance of the pharmacy's compounding
26 equipment. Specifically, the certification for the Unidirectional Flow Device (powder hood)
27 expired about two (2) months prior to the inspection (expired on August 31, 2012).

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Respondents Pharmacy and Wong: Incomplete Labeling of Compounded Drugs)**

3 35. Respondents Pharmacy and Wong are subject to disciplinary action under section
4 4301, subdivision (o), for violating California Code of Regulations section 1735.4, subsection (b),
5 in that there was no statement on the container or receipt that the product was compounded by the
6 pharmacy. The circumstances are as follows:

7 a. On or about October 17, 2012, when Respondent Wong was in charge of
8 Respondent Pharmacy located at 1558 10th Street # B, in Santa Monica, an investigation found
9 that the pharmacy did not label the drugs or advise on its receipts that their drugs were
10 compounded by this particular pharmacy.

11 **DISCIPLINARY CONSIDERATIONS**

12 36. To determine the degree of discipline, if any, to be imposed on Respondent Wong,
13 Complainant alleges that on or about January 14, 2005, in a prior action, the Board issued
14 Citation Number CI 2004 28884 and ordered Respondent Wong to pay \$1,000. The
15 circumstances surrounding this citation are that on or about June 28, 2004, at Drugtown
16 Pharmacy, located at 802 7th Street, in Santa Monica, Respondent Wong dispensed prescription
17 number 6411570 filled with Warfarin 5 mg when Warfarin 1 mg had been prescribed in violation
18 of California Code of Regulations, title 16, section 1716. Respondent Wong paid the fine. This
19 Citation is now final and is incorporated by reference as if fully set forth.

20 37. To determine the degree of discipline, if any, to be imposed on Respondent Wong,
21 Complainant alleges that on or about August 30, 2010, in a prior action, the Board issued Citation
22 Number CI 2010 45511 and ordered Respondent to pay \$3, 000. Respondent Wong paid the fine.
23 This Citation is now final and is incorporated by reference as if fully set forth. The circumstances
24 surrounding this citation are as follows:

25 a. Failure to Maintain Proper Records for Compounded Medication. On
26 February 2, 2009, while working at Drugtown Pharmacy, located at 802 7th Street, in Santa
27 Monica, Respondent Wong did not have compounding records for multiple compounded
28

1 medications stored in his pharmacy nor did he have any acquisition records for them from Regent
2 Square Pharmacy in violation of Business and Professions Code section 4081, subsection (a).

3 b. Stocking Dangerous Drugs Lacking Quality or Strength. On February 2, 2009,
4 while working at Drugtown Pharmacy, located at 802 7th Street, in Santa Monica, Respondent
5 Wong, stored compounded medications without any information on lot numbers, expiration dates,
6 dates compounded, or raw ingredients in violation of Business and Professions Code section
7 4342.

8 c. Failure to Complete a Pharmacy Self-Assessment. On February 2, 2009, while
9 working at Drugtown Pharmacy, located at 802 7th Street, in Santa Monica, Respondent Wong
10 had not completed a self-assessment since his last one in 2003 in violation of California Code of
11 Regulations Section 1715, subsection (c).

12 d. Lack of Policy and Procedures for Employee Theft or Impairment. On February
13 2, 2009, while working at Drugtown Pharmacy, located at 802 7th Street, in Santa Monica,
14 Respondent Wong could not produce a policy or procedure for theft or impaired employee in
15 violation of Business and Professions Code section 4104, subsection (b).

16 e. Lack of Written Policy and Procedure for Hiring Technicians and Defining
17 Their Job Duties. On February 2, 2009, while working at Drugtown Pharmacy, located at 802 7th
18 Street, in Santa Monica, Respondent Wong could not produce a policy and procedure for hiring
19 technicians and their job duties in violation of California Code of Regulations section 1793.7,
20 subsection (d).

21 f. Failure to Complete a Biennial Controlled Substances Inventory. On February,
22 2, 2009, while working at Drugtown Pharmacy, located at 802 7th Street, in Santa Monica,
23 Respondent Wong could not produce any controlled substances inventory in violation of Federal
24 Regulations Section 1304.11, subsection (c).

25 38. To determine the degree of discipline, if any, to be imposed on Respondent Wong,
26 Complainant alleges that on or about July 23, 2013, in a prior action, the Board issued Citation
27 Number CI 2013 57617 and ordered Respondent Wong to pay \$500.00. The circumstances
28 surrounding this citation are that on or about October 25, 2012, at Regent Square Pharmacy,

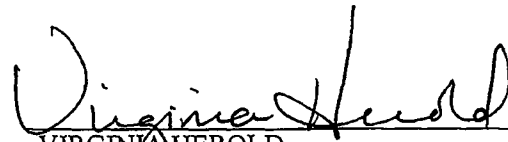
1 located at 17609 Ventura Blvd. No. LL07, in Encino, a Board inspector observed the manager
2 open the pharmacy, without the pharmacist, Respondent Wong, present. The security of the
3 prescription department was not maintained since the manager was in possession of the pharmacy
4 and the prescription drug room key(s). The key(s) were not in a tamper evident container in
5 violation of California Code of Regulations, title 16, section 1714, subdivisions (d) and (e).
6 Respondent Wong has not paid the fine.

7 PRAYER

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

- 10 1. Revoking or suspending Permit Number PHY 50560, issued to Vi Pharmacy, Inc.;
11 Marya Khalil;
- 12 2. Revoking or suspending Pharmacist-In-Charge Number RPH 42747, issued to Harry
13 Wong.;
- 14 3. Ordering Marya Khalil and Harry Wong to pay the Board of Pharmacy the reasonable
15 costs of the investigation and enforcement of this case, pursuant to Business and Professions
16 Code section 125.3;
- 17 4. Taking such other and further action as deemed necessary and proper.

18
19
20 DATED: 11/4/13


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

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