

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

In the Matter of the Accusation Against:

Case No. 5145

**ELISA LE
6331 Beachview Drive
Huntington Beach, CA 92648**

Pharmacist License No. RPH 41913

Respondent.

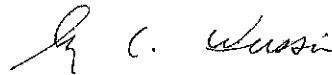
DECISION AND ORDER

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 March 25, 2015.

It is so ORDERED on March 18, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER, Board President

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

12 In the Matter of the Accusation Against:

Case No. 5145

13 **ELISA LE**
14 **6331 Beachview Drive**
Huntington Beach, CA 92648

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **Pharmacist License No. RPH 41913**

16 Respondent.

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

20 PARTIES

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

25 2. Respondent Elisa Le (Respondent) is representing herself in this proceeding and has
26 chosen not to exercise her right to be represented by counsel.

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1 3. On or about August 3, 1988, the Board issued Pharmacist License No. RPH 41913 to
2 Elisa Le (Respondent). The Pharmacist License was in full force and effect at all times relevant
3 to the charges brought in Accusation No. 5145, and will expire on July 31, 2016, unless renewed.

4 JURISDICTION

5 4. Accusation No. 5145 was filed before the Board, and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent on November 24, 2014. Respondent timely filed her Notice of Defense contesting
8 the Accusation.

9 5. A copy of Accusation No. 5145 is attached as Exhibit A, and incorporated herein by
10 reference.

11 ADVISEMENT AND WAIVERS

12 6. Respondent has carefully read, and understands the charges and allegations in
13 Accusation No. 5145. Respondent has also carefully read, and understands the effects of this
14 Stipulated Settlement and Disciplinary Order.

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

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 9. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 5145.

27 10. Respondent agrees that her Pharmacist License is subject to discipline and she agrees
28 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

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

20 14. In consideration of the foregoing admissions and stipulations, the parties agree that
21 the Board may, without further notice or formal proceeding, issue and enter the following
22 Disciplinary Order:

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1 DISCIPLINARY ORDER

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 41913 issued to Respondent
3 Elisa Le (Respondent) is revoked. However, the revocation is stayed, and Respondent is placed
4 on probation for four (4) 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.

1 **3. Interview with the Board**

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

7 **4. Cooperate with Board Staff**

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

11 **5. Continuing Education**

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

14 **6. Notice to Employers**

15 During the period of probation, Respondent shall notify all present and prospective
16 employers of the decision in case number 5145 and the terms, conditions and restrictions imposed
17 on Respondent by the decision, as follows:

18 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
19 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,
20 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
21 tenure of employment) and owner to report to the board in writing acknowledging that the listed
22 individual(s) has/have read the decision in case number 5145, and terms and conditions imposed
23 thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or
24 supervisor(s) submit timely acknowledgment(s) to the board.

25 If Respondent works for or is employed by or through a pharmacy employment service,
26 Respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
27 licensed by the board of the terms and conditions of the decision in case number 5145 in advance

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1 of the Respondent commencing work at each licensed entity. A record of this notification must
2 be 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
5 employment service, Respondent shall cause her direct supervisor with the pharmacy
6 employment service to report to the board in writing acknowledging that she has read the decision
7 in case number 5145 and the terms and conditions imposed thereby. It shall be Respondent's
8 responsibility to ensure that her employer(s) and/or supervisor(s) submit timely
9 acknowledgment(s) to the board.

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

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

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

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

23 **8. Reimbursement of Board Costs**

24 As a condition precedent to successful completion of probation, Respondent shall pay to the
25 board its costs of investigation and prosecution in the amount of \$6,061.00. Respondent shall
26 make said payments pursuant to a schedule approved by the Board or its designee. There shall be
27 no deviation from this schedule absent prior written approval by the board or its designee. Failure
28 to pay costs by the deadline(s) as directed shall be considered a violation of probation.

1 The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility
2 to 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 her license to the board for surrender. The board or its designee shall
20 have 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 her pocket and wall license
25 to 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

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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.

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1 "Cessation of practice" means any calendar month during which Respondent is
2 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and
3 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
4 month during which Respondent is practicing as a pharmacist for at least forty (40)
5 hours as a pharmacist as defined by Business and Professions Code section 4000 et
6 seq.

7 **14. Violation of Probation**

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

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

20 **15. Completion of Probation**

21 Upon written notice by the board or its designee indicating successful completion of
22 probation, Respondent's license will be fully restored.

23 **16. Pharmacists Recovery Program (PRP)**

24 Within thirty (30) days of the effective date of this decision, Respondent shall contact the
25 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
26 successfully participate in, and complete the treatment contract and any subsequent addendums as
27 recommended and provided by the PRP and as approved by the board or its designee. The costs
28 for PRP participation shall be borne by the Respondent.

1 If Respondent is currently enrolled in the PRP, said participation is now mandatory and as
2 of the effective date of this decision is no longer considered a self-referral under Business and
3 Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete
4 her current contract and any subsequent addendums with the PRP.

5 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
6 the treatment contract and/or any addendums, shall be considered a violation of probation.

7 Probation shall be automatically extended until Respondent successfully completes the
8 PRP. Any person terminated from the PRP program shall be automatically suspended by the
9 board. Respondent may not resume the practice of pharmacy until notified by the board in
10 writing.

11 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
12 licensed practitioner as part of a documented medical treatment shall result in the automatic
13 suspension of practice by Respondent and shall be considered a violation of probation.
14 Respondent may not resume the practice of pharmacy until notified by the board in writing.

15 During suspension, Respondent shall not enter any pharmacy area or any portion of the
16 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
17 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
18 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
19 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
20 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
21 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
22 and controlled substances. Respondent shall not resume practice until notified by the board.

23 During suspension, Respondent shall not engage in any activity that requires the
24 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
25 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
26 designated representative for any entity licensed by the board.

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1 Subject to the above restrictions, Respondent may continue to own or hold an interest in
2 any licensed premises in which she holds an interest at the time this decision becomes effective
3 unless otherwise specified in this order.

4 Failure to comply with this suspension shall be considered a violation of probation.

5 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
6 timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid
7 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

8 Respondent shall work in a pharmacy setting with access to controlled substances for six
9 (6) consecutive months before successfully completing probation. If Respondent fails to do so,
10 probation shall be automatically extended until this condition has been met. Failure to satisfy this
11 condition within six (6) months beyond the original date of expiration of the term of probation
12 shall be considered a violation of probation.

13 **17. Random Drug Screening**

14 If Respondent is enrolled in the Pharmacists Recovery Program (PRP) pursuant to
15 Condition 16 above, Respondent, at her own expense, shall participate in random testing,
16 including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle
17 testing, or other drug screening program as directed by the board or its designee. Respondent
18 may be required to participate in testing for the entire probation period and the frequency of
19 testing will be determined by the board or its designee. At all times, Respondent shall fully
20 cooperate with the board or its designee, and shall, when directed, submit to such tests and
21 samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled
22 substances as the board or its designee may direct. Failure to timely submit to testing as directed
23 shall be considered a violation of probation. Upon request of the board or its designee,
24 Respondent shall provide documentation from a licensed practitioner that the prescription for a
25 detected drug was legitimately issued and is a necessary part of the treatment of the Respondent.
26 Failure to timely provide such documentation shall be considered a violation of probation. Any
27 confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed
28 practitioner as part of a documented medical treatment shall be considered a violation of

1 probation and shall result in the automatic suspension of practice of pharmacy by Respondent.

2 Respondent may not resume the practice of pharmacy until notified by the board in writing.

3 During suspension, Respondent shall not enter any pharmacy area or any portion of the
4 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
5 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
6 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
7 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
8 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
9 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
10 and controlled substances. Respondent shall not resume practice until notified by the board.

11 During suspension. Respondent shall not engage in any activity that requires the
12 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
13 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
14 designated representative for any entity licensed by the board.

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

18 Failure to comply with this suspension shall be considered a violation of probation.

19 **18. Abstain from Drugs and Alcohol Use**

20 If Respondent is enrolled in the Pharmacists Recovery Program (PRP) pursuant to
21 Condition 16 above, Respondent shall completely abstain from the possession or use of alcohol,
22 controlled substances, dangerous drugs and their associated paraphernalia except when the drugs
23 are lawfully prescribed by a licensed practitioner as part of a documented medical treatment.

24 Upon request of the board or its designee, Respondent shall provide documentation from the
25 licensed practitioner that the prescription for the drug was legitimately issued and is a necessary
26 part of the treatment of the Respondent. Failure to timely provide such documentation shall be
27 considered a violation of probation. Respondent shall ensure that she is not in the same physical
28 location as individuals who are using illicit substances even if Respondent is not personally

1 ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated
2 paraphernalia not supported by the documentation timely provided, and/or any physical proximity
3 to persons using illicit substances, shall be considered a violation of probation.

4 **19. Prescription Coordination and Monitoring of Prescription Use**

5 If Respondent is enrolled in the Pharmacists Recovery Program (PRP) pursuant to
6 Condition 16 above, within thirty (30) days of the effective date of this decision, Respondent shall
7 submit to the board, for its prior approval, the name and qualifications of a single physician, nurse
8 practitioner, physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the
9 Respondent's history with controlled substances, and/or dangerous drugs and who will coordinate
10 and monitor any prescriptions for Respondent for dangerous drugs, controlled substances or
11 mood-altering drugs. The approved practitioner shall be provided with a copy of the board's
12 Accusation and decision. A record of this notification must be provided to the board upon
13 request. Respondent shall sign a release authorizing the practitioner to communicate with the
14 board about Respondent's treatment(s). The coordinating physician, nurse practitioner, physician
15 assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation
16 regarding Respondent's compliance with this condition. If any substances considered addictive
17 have been prescribed, the report shall identify a program for the time limited use of any such
18 substances. The board may require that the single coordinating physician, nurse practitioner,
19 physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in
20 addictive medicine. Should Respondent, for any reason, cease supervision by the approved
21 practitioner, Respondent shall notify the board immediately and, within thirty (30) days of
22 ceasing treatment, submit the name of a replacement physician, nurse practitioner, physician
23 assistant, or psychiatrist of Respondent's choice to the board or its designee for its prior approval.
24 Failure to timely submit the selected practitioner or replacement practitioner to the board for
25 approval, or to ensure the required reporting thereby on the quarterly reports, shall be considered
26 a violation of probation.

27 If at any time an approved practitioner determines that Respondent is unable to practice
28 safely or independently as a pharmacist, the practitioner shall notify the board immediately by

1 telephone and follow up by written letter within three (3) working days. Upon notification from
2 the board or its designee of this determination, Respondent shall be automatically suspended and
3 shall not resume practice until notified by the board that practice may be resumed.

4 During suspension, Respondent shall not enter any pharmacy area or any portion of the
5 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
6 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
7 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
8 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
9 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
10 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
11 and controlled substances. Respondent shall not resume practice until notified by the board.

12 During suspension, Respondent shall not engage in any activity that requires the
13 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
14 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
15 designated representative for any entity licensed by the board.

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

19 Failure to comply with this suspension shall be considered a violation of probation.

20 **20. Community Services Program**

21 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
22 board or its designee, for prior approval, a community service program in which Respondent shall
23 provide free health-care related services on a regular basis to a community or charitable facility or
24 agency for at least eighty (80) hours per year for the first three years of probation. Within thirty
25 (30) days of board approval thereof, Respondent shall submit documentation to the board
26 demonstrating commencement of the community service program. A record of this notification
27 must be provided to the board upon request. Respondent shall report on progress with the
28 community service program in the quarterly reports. Failure to timely submit, commence, or

1 comply with the program shall be considered a violation of probation.

2 **21. Supervised Practice**

3 During the period of probation, Respondent shall practice only under the supervision of a
4 licensed pharmacist not on probation with the board. Upon and after the effective date of this
5 decision, Respondent shall not practice pharmacy and her license shall be automatically
6 suspended until a supervisor is approved by the board or its designee. The supervision shall be,
7 as required by the board or its designee, either:

8 Continuous -- At least 75% of a work week

9 Substantial - At least 50% of a work week

10 Partial - At least 25% of a work week

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

12 Within thirty (30) days of the effective date of this decision, Respondent shall have her
13 supervisor submit notification to the board in writing stating that the supervisor has read the
14 decision in case number 5145 and is familiar with the required level of supervision as determined
15 by the board or its designee. It shall be the Respondent's responsibility to ensure that her
16 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
17 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
18 acknowledgements to the board shall be considered a violation of probation.

19 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
20 that her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
21 acknowledgement(s) to the board. Respondent shall have her new supervisor, within fifteen (15)
22 days after employment commences, submit notification to the board in writing stating the direct
23 supervisor and pharmacist-in-charge have read the decision in case number 5145 and is familiar
24 with the level of supervision as determined by the board. Respondent shall not practice pharmacy
25 and her license shall be automatically suspended until the board or its designee approves a new
26 supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
27 acknowledgements to the board shall be considered a violation of probation.

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

2 During suspension, Respondent shall not enter any pharmacy area or any portion of the
3 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
4 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
5 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
6 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
7 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
8 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
9 and controlled substances. Respondent shall not resume practice until notified by the board.

10 During suspension, Respondent shall not engage in any activity that requires the
11 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
12 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
13 designated representative for any entity licensed by the board.

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

17 Failure to comply with this suspension shall be considered a violation of probation.

18 **22. No Ownership of Licensed Premises**

19 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
20 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
21 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
22 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
23 days following the effective date of this decision and shall immediately thereafter provide written
24 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
25 documentation thereof shall be considered a violation of probation.

26 **23. Ethics Course**

27 Within sixty (60) calendar days of the effective date of this decision, Respondent shall
28 enroll in a course in ethics, at Respondent's expense, approved in advance by the board or its


1 designee. Failure to initiate the course during the first year of probation, and complete it within
2 the second year of probation, is a violation of probation.

3 Respondent shall submit a certificate of completion to the board or its designee within five
4 days after completing the course.

5 ACCEPTANCE

6 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
7 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated
8 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
9 bound by the Decision and Order of the Board of Pharmacy.

10
11 Dated: 02/09/2015

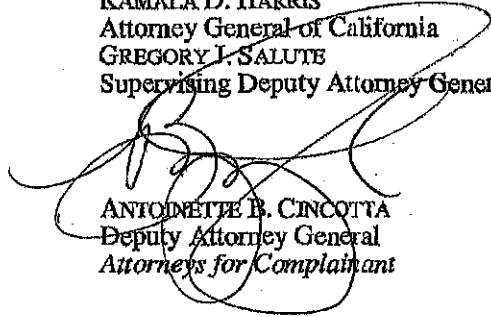

ELISA LE
Respondent

14 ENDORSEMENT

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

17 Dated: 2/19/2015

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General


ANTOINETTE B. CINCOTTA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5145

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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5145

12 **ELISA LE**
13 **6331 Beachview Drive**
Huntington Beach, CA 92648

A C C U S A T I O N

14 **Pharmacist License No. RPH 41913**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 3, 1988, the Board of Pharmacy issued Pharmacist License
22 Number RPH 41913 to Elisa Le (Respondent). The Pharmacist License was in full force and
23 effect at all times relevant to the charges brought herein and will expire on July 31, 2016, unless
24 renewed.

25 **JURISDICTION**

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

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.].

4 5. Section 4300, subdivision (a), of the Code provides that every license issued by the
5 Board may be suspended or revoked.

6 6. Section 4300.1 of the Code states:

7 The expiration, cancellation, forfeiture, or suspension of a board-issued
8 license by operation of law or by order or decision of the board or a court of law,
9 the placement of a license on a retired status, or the voluntary surrender of a
10 license by a licensee shall not deprive the board of jurisdiction to commence or
11 proceed with any investigation of, or action or disciplinary proceeding against, the
12 licensee or to render a decision suspending or revoking the license.

11 STATUTORY PROVISIONS

12 7. Section 4060 of the Code states:

13 No person shall possess any controlled substance, except that furnished to a
14 person upon the prescription of a physician, dentist, podiatrist, optometrist,
15 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
16 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
17 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
18 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a
19 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)
20 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This
21 section shall not apply to the possession of any controlled substance by a
22 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
23 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
24 practitioner, or physician assistant, when in stock in containers correctly labeled
25 with the name and address of the supplier or producer.

26 Nothing in this section authorizes a certified nurse-midwife, a nurse
27 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
28 stock of dangerous drugs and devices.

8. Section 4301 of the Code states in pertinent part:

24 The board shall take action against any holder of a license who is guilty of
25 unprofessional conduct or whose license has been procured by fraud or
26 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
27 is not limited to, any of the following:
28 ...

///

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

4 ...

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

10

11 COST RECOVERY

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

18 DRUG

19 10. Vyvanse is a brand name for lisdexamfetamine, a Schedule II controlled substance
20 pursuant to Health and Safety Code section 11055(d)(1), and a dangerous drug pursuant to
21 Business and Professions Code section 4022.

22 FACTUAL ALLEGATIONS

23 11. At all times mentioned referenced herein, Respondent was employed as a "floating"
24 pharmacist at CVS Pharmacy #8854 located in Santa Ana, California.

25 12. On or about May 29, 2013 at 5:30 p.m., while Respondent was working as a
26 pharmacist, she removed a stock bottle of 100 capsules of Vyvanse 40 mg from the pharmacy
27 safe, placed that bottle into her right smock pocket, put the capsules from the bottle in the pocket
28 of her smock, placed the empty bottle in the receptacle used to dispose of empty stock bottles, and
walked out of the pharmacy with the 100 capsules of Vyvanse 40 mg in the pocket of her smock.

///

1 13. On June 3, 2013, when confronted by the CVS Pharmacy Regional Loss Prevention
2 Manager and her supervisor, Respondent admitted that she stole the 100 capsules of Vyvanse 40
3 mg contained in the bottle for her son's personal use, without a prescription, and without paying
4 for them. Respondent further admitted that a few weeks prior to June 3, 2013, she also diverted
5 three tablets of another drug from the CVS Pharmacy while working as a pharmacist there.

6 14. On June 4, 2013, Respondent returned all 100 capsules of Vyvanse 40 mg to the CVS
7 Pharmacy.

8 **FIRST CAUSE FOR DISCIPLINE**

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

10 15. Respondent is subject to disciplinary action under Code section 4301(f), in that she
11 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as set forth in
12 paragraphs 11 through 14, which are incorporated herein by reference.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Unlawful Possession of Controlled Substance)**

15 16. Respondent is subject to disciplinary action under Code section 4301(o), for violating
16 Code section 4060, in that she possessed a controlled substance without a prescription, as set forth
17 in paragraphs 11 through 14, which are incorporated herein by reference.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct)**

20 17. Respondent is subject to disciplinary action under Code section 4301 for
21 unprofessional conduct in that she engaged in the activities described in paragraphs 11 through 14
22 above, which are incorporated herein by reference.

23 **PRAYER**

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

26 1. Revoking or suspending Pharmacist License Number RPH 41913, issued to Elisa Le;

27 ///

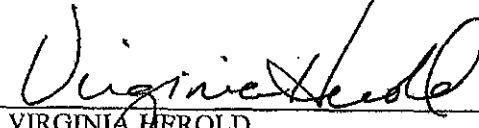
28 ///

1 2. Ordering Elisa Le to pay the Board of Pharmacy the reasonable costs of the
2 investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3;

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

5
6 DATED:

11/10/14



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

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