

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

In the Matter of the Accusation Against:

**TBT PHARMACY INC., DBA
TBT PHARMACY INC.
6552 Bolsa Avenue, Suite A
Huntington, CA 92647**

Pharmacy License No. PHY 50904

**VINH LE TRAN
11462 Toscana Circle
Stanton, CA 90680**

Pharmacist License No. RPH 59831

Case No. 5295

OAH No. 2015071329

Respondents.

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 at 5:00 p.m. on May 12, 2016.

It is so ORDERED on April 12, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
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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:

12 **TBT PHARMACY INC., DBA**
13 **TBT PHARMACY INC.**
14 **6552 Bolsa Avenue, Suite A**
Huntington Beach, CA 92647

15 **Pharmacy License No. PHY 50904**

16 **VINH LE TRAN**
17 **11462 Toscana Circle**
Stanton, CA 90680

18 **Pharmacist License No. RPH 59831**

19 Respondents.

Case No. 5295

OAH No. 2015071329

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

20
21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 PARTIES

25 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27
28

1 D. Harris, Attorney General of the State of California, by Desiree I. Kellogg, Deputy Attorney
2 General.

3 2. Respondent TBT Pharmacy, Inc., doing business as TBT Pharmacy, Inc. and Vinh Le
4 Tran, (Respondents) are represented in this proceeding by attorney Paul Chan, whose address is:
5 2311 Capitol Avenue, Sacramento, CA 95816.

6 3. On or about March 14, 2012, the Board of Pharmacy issued Pharmacy Permit No.
7 PHY 50904 to TBT Pharmacy, Inc., doing business as TBT Pharmacy, Inc. (Respondent TBT
8 Pharmacy, Inc.). The Pharmacy Permit was in full force and effect at all times relevant to the
9 charges brought in Accusation No. 5295 and was cancelled on August 12, 2015.

10 4. On or about July 20, 2007, the Board of Pharmacy issued Pharmacist License
11 Number RPH 59831 to Vinh Le Tran (Respondent Vinh Tran). The Pharmacist License was in
12 full force and effect at all times relevant to the charges brought in Accusation No. 5295 and will
13 expire on August 31, 2016, unless renewed.

14 JURISDICTION

15 5. Accusation No. 5295 was filed before the Board of Pharmacy (Board), Department of
16 Consumer Affairs, and is currently pending against Respondents. The Accusation and all other
17 statutorily required documents were properly served on Respondents on April 14, 2016.
18 Respondents timely filed their Notices of Defense contesting the Accusation.

19 6. A copy of Accusation No. 5295 is attached as exhibit A and incorporated herein by
20 reference.

21 ADVISEMENT AND WAIVERS

22 7. Respondents have carefully read, fully discussed with counsel, and understand the
23 charges and allegations in Accusation No. 5295. Respondents have also carefully read, fully
24 discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary
25 Order.

26 8. Respondents are fully aware of their legal rights in this matter, including the right to a
27 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
28 the witnesses against them; the right to present evidence and to testify on their own behalf; the

1 right to the issuance of subpoenas to compel the attendance of witnesses and the production of
2 documents; the right to reconsideration and court review of an adverse decision; and all other
3 rights accorded by the California Administrative Procedure Act and other applicable laws.

4 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
5 every right set forth above.

6 CULPABILITY

7 10. Respondents admit the truth of each and every charge and allegation in Accusation
8 No. 5295.

9 11. Respondent TBT Pharmacy understands that by signing this stipulation it enables the
10 Board to issue an order accepting the surrender of its Pharmacy Permit without further process.

11 12. Respondent Vinh Tran agrees that his Pharmacist License is subject to discipline and
12 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

13 CONTINGENCY

14 13. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
15 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
16 communicate directly with the Board regarding this stipulation and settlement, without notice to
17 or participation by Respondents or their counsel. By signing the stipulation, Respondents
18 understand and agree that they may not withdraw their agreement or seek to rescind the
19 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
20 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
21 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
22 the parties, and the Board shall not be disqualified from further action by having considered this
23 matter.

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

27 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
28 integrated writing representing the complete, final, and exclusive embodiment of their agreement.

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

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

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 50904, issued to Respondent
10 TBT Pharmacy Inc., doing business as TBT Pharmacy, Inc. (Respondent TBT Pharmacy) is
11 surrendered and accepted by the Board of Pharmacy.

12 1. Respondent TBT Pharmacy surrenders Pharmacy Permit No. PHY 50904 as of the
13 effective date of this Decision. Respondent TBT Pharmacy shall relinquish the premises wall
14 license and renewal license to the Board within ten (10) days of the effective date of this
15 Decision.

16 2. The surrender of Respondent TBT Pharmacy's license and the acceptance of the
17 surrendered license by the Board shall constitute the imposition of discipline against Respondent
18 TBT Pharmacy. This Decision constitutes a record of discipline and shall become a part of
19 Respondent TBT Pharmacy's license history with the Board.

20 3. If Respondent TBT Pharmacy ever applies for licensure or petitions for reinstatement
21 in the State of California, the Board shall treat it as a new application for licensure. Respondent
22 TBT Pharmacy must comply with all the laws, regulations and procedures for licensure in effect
23 at the time the application or petition is filed, and all of the charges and allegations contained in
24 Accusation No. 5295 shall be deemed to be true, correct and admitted by Respondent TBT
25 Pharmacy when the Board determines whether to grant or deny the application or petition.

26 4. Respondent TBT Pharmacy shall be jointly and severally liable with Respondent
27 Vinh Tran and pay the agency its costs of investigation and enforcement in the amount of
28 \$11,968.50, prior to issuance of a new or reinstated license.

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

3 **IT IS FURTHER HEREBY ORDERED** that Pharmacist License No. RPH 59831 issued
4 to Vinh Le Tran (Respondent Vinh Tran) is revoked. However, the revocation is stayed and
5 Respondent Vinh Tran is placed on probation for five (5) years on the following terms and
6 conditions:

7 1. **Obey All Laws**

8 Respondent Vinh Tran shall obey all state and federal laws and regulations.

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

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

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

22 2. **Report to the Board**

23 Respondent Vinh Tran shall report to the board quarterly, on a schedule as directed by the
24 board or its designee. The report shall be made either in person or in writing, as directed. Among
25 other requirements, respondent shall state in each report under penalty of perjury whether there
26 has been compliance with all the terms and conditions of probation. Failure to submit timely
27 reports in a form as directed shall be considered a violation of probation. Any period(s) of
28 delinquency in submission of reports as directed may be added to the total period of probation.

1 Moreover, if the final probation report is not made as directed, probation shall be automatically
2 extended until such time as the final report is made and accepted by the board.

3 **3. Interview with the Board**

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

9 **4. Cooperate with Board Staff**

10 Respondent Vinh Tran shall cooperate with the board's inspection program and with the
11 board's monitoring and investigation of respondent's compliance with the terms and conditions of
12 their probation. Failure to cooperate shall be considered a violation of probation.

13 **5. Continuing Education**

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

16 **6. Notice to Employers**

17 During the period of probation, Respondent Vinh Tran shall notify all present and
18 prospective employers of the decision in case number 5295 and the terms, conditions and
19 restrictions imposed on respondent by the decision, as follows:

20 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
21 Respondent Vinh Tran undertaking any new employment, Respondent Vinh Tran shall cause their
22 direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed
23 during Respondent Vinh Tran's tenure of employment) and owner to report to the board in
24 writing acknowledging that the listed individual(s) has/have read the decision in case number
25 5295, and terms and conditions imposed thereby. It shall be Respondent Vinh Tran's
26 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
27 acknowledgment(s) to the board.
28

1 If Respondent Vinh Tran works for or is employed by or through a pharmacy employment
2 service, Respondent Vinh Tran must notify his direct supervisor, pharmacist-in-charge, and
3 owner at every entity licensed by the board of the terms and conditions of the decision in case
4 number 5295 in advance of the Respondent Vinh Tran commencing work at each licensed entity.
5 A record of this notification must be provided to the board upon request.

6 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
7 (15) days of Respondent Vinh Tran undertaking any new employment by or through a pharmacy
8 employment service, Respondent Vinh Tran shall cause his direct supervisor with the pharmacy
9 employment service to report to the board in writing acknowledging that they has read the
10 decision in case number 5295 and the terms and conditions imposed thereby. It shall be
11 Respondent Vinh Tran's responsibility to ensure that his employer(s) and/or supervisor(s) submit
12 timely acknowledgment(s) to the board.

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

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

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

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

1 **8. Reimbursement of Board Costs**

2 As a condition precedent to successful completion of probation, Respondent Vinh Tran
3 shall be jointly and severally responsible with Respondent TBT Pharmacy to pay to the board its
4 costs of investigation and prosecution in the amount of \$11,968.50. Respondent shall make said
5 payments in a payment plan to be approved by the Board.

6 There shall be no deviation from this schedule absent prior written approval by the board or
7 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
8 probation.

9 The filing of bankruptcy by Respondents Vinh Tran and TBT Pharmacy shall not relieve
10 Respondents of their responsibility to reimburse the board its costs of investigation and
11 prosecution.

12 **9. Probation Monitoring Costs**

13 Respondent Vinh Tran shall pay any costs associated with probation monitoring as
14 determined by the board each and every year of probation. Such costs shall be payable to the
15 board on a schedule as directed by the board or its designee. Failure to pay such costs by the
16 deadline(s) as directed shall be considered a violation of probation.

17 **10. Status of License**

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

21 If Respondent Vinh Tran's license expires or is cancelled by operation of law or otherwise
22 at any time during the period of probation, including any extensions thereof due to tolling or
23 otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and
24 conditions of this probation not previously satisfied.

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

26 Following the effective date of this decision, should Respondent Vinh Tran cease practice
27 due to retirement or health, or be otherwise unable to satisfy the terms and conditions of
28 probation, Respondent Vinh Tran may tender their license to the board for surrender. The board

1 or its designee shall have the discretion whether to grant the request for surrender or take any
2 other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
3 license, Respondent Vinh Tran will no longer be subject to the terms and conditions of probation.
4 This surrender constitutes a record of discipline and shall become a part of Respondent Vinh
5 Tran's license history with the board.

6 Upon acceptance of the surrender, Respondent Vinh Tran shall relinquish his pocket and
7 wall license to the board within ten (10) days of notification by the board that the surrender is
8 accepted. Respondent Vinh Tran may not reapply for any license from the board for three (3)
9 years from the effective date of the surrender. Respondent Vinh Tran shall meet all requirements
10 applicable to the license sought as of the date the application for that license is submitted to the
11 board, including any outstanding costs.

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

14 Respondent Vinh Tran shall notify the board in writing within ten (10) days of any change
15 of employment. Said notification shall include the reasons for leaving, the address of the new
16 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
17 Vinh Tran shall further notify the board in writing within ten (10) days of a change in name,
18 residence address, mailing address, or phone number.

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

21 **13. Tolling of Probation**

22 Except during periods of suspension, Respondent Vinh Tran shall, at all times while on
23 probation, be employed as a pharmacist in California for a minimum of 40 hours per calendar
24 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,
25 the period of probation shall be extended by one month for each month during which this
26 minimum is not met. During any such period of tolling of probation, Respondent Vinh Tran must
27 nonetheless comply with all terms and conditions of probation.
28

1 Should Respondent Vinh Tran, regardless of residency, for any reason (including vacation)
2 cease practicing as a pharmacist for a minimum of 40 hours per calendar month in California,
3 Respondent Vinh Tran must notify the board in writing within ten (10) days of the cessation of
4 practice, and must further notify the board in writing within ten (10) days of the resumption of
5 practice. Any failure to provide such notification(s) shall be considered a violation of probation.

6 It is a violation of probation for Respondent Vinh Tran's probation to remain tolled pursuant
7 to the provisions of this condition for a total period, counting consecutive and non-consecutive
8 months, exceeding thirty-six (36) months.

9 "Cessation of practice" means any calendar month during which Respondent
10 Vinh Tran is not practicing as a pharmacist for at least 40 hours, as defined by
11 Business and Professions Code section 4000 et seq. "Resumption of practice" means
12 any calendar month during which Respondent Vinh Tran is practicing as a pharmacist
13 for at least 40 hours as a pharmacist as defined by Business and Professions Code
14 section 4000 et seq.

15 **14. Violation of Probation**

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

21 If Respondent Vinh Tran violates probation in any respect, the board, after giving
22 Respondent Vinh Tran notice and an opportunity to be heard, may revoke probation and carry out
23 the disciplinary order that was stayed. Notice and opportunity to be heard are not required for
24 those provisions stating that a violation thereof may lead to automatic termination of the stay
25 and/or revocation of the license. If a petition to revoke probation or an accusation is filed against
26 Respondent Vinh Tran during probation, the board shall have continuing jurisdiction and the
27 period of probation shall be automatically extended until the petition to revoke probation or
28 accusation is heard and decided.

1 **15. Completion of Probation**

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

4 **16. Restricted Practice**

5 Respondent Vinh Tran shall not dispense, oversee or otherwise participate in the dispensing
6 of controlled substances during probation. Respondent Vinh Tran shall submit proof satisfactory
7 to the board of compliance with this term of probation. Failure to abide by this restriction or to
8 timely submit proof to the board of compliance therewith shall be considered a violation of
9 probation.

10 Respondent Vinh Tran may resume the dispensing, oversight or participation in the
11 dispensing of controlled substances if he successfully completes at his own expense, ten (10)
12 hours (five (5) hours of which must be in-person), remedial education in the area of
13 corresponding responsibility (preferably the Drug Enforcement Administration course(s).) The
14 remedial education course(s) shall be preapproved by the Board or its designee before
15 Respondent Vinh Tran takes any remedial education course(s) to satisfy this condition. After
16 completion of the remedial education course(s), Respondent Vinh Tran shall submit satisfactory
17 proof of such completion to the Board or its designee.

18 **17. Remedial Education**

19 Within sixty (60) days of the effective date of this Decision, Respondent Vinh Tran shall
20 submit to the Board or its designee, for prior approval, an appropriate program of remedial
21 education related to corresponding responsibility, prescription drug abuse and prevention and
22 prescribing guidelines for controlled substances. The program of remedial education shall consist
23 of at least forty (40) hours, which shall be completed during the initial three years of probation at
24 Respondent Vinh Tran's own expense. Fifty (50) percent of the aforementioned remedial
25 education must be in-person. The remedial education course(s) taken in connection with
26 satisfying condition 16 shall also satisfy ten (10) hours of this remedial education requirement.
27 All remedial education shall be in addition to, and shall not be credited toward, continuing
28 education (CE) courses used for license renewal purposes.

1 Failure to timely submit or complete the approved remedial education shall be considered a
2 violation of probation. The period of probation will be automatically extended until such
3 remedial education is successfully completed and written proof, in a form acceptable to the
4 Board, is provided to the Board or its designee.

5 Following the completion of each course, the Board or its designee may require
6 Respondent Vinh Tran, at his own expense, to take an approved examination to test Respondent
7 Vinh Tran's knowledge of the course. If Respondent Vinh Tran does not achieve a passing score
8 on the examination, this failure shall be considered a violation of probation. Any such
9 examination failure shall require respondent to take another course approved by the Board in the
10 same subject area.

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

12 Respondent Vinh Tran shall not own, have any legal or beneficial interest in, or serve as a
13 manager, administrator, member, officer, director, trustee, associate, or partner of any business,
14 firm, partnership, or corporation currently or hereinafter licensed by the Board. Respondent Vinh
15 Tran shall sell or transfer any legal or beneficial interest in any entity licensed by the Board
16 within ninety (90) days following the effective date of this Decision and shall immediately
17 thereafter provide written proof thereof to the Board. Failure to timely divest any legal or
18 beneficial interest(s) or provide documentation thereof shall be considered a violation of
19 probation.

20 **19. Ethics Course**

21 Within sixty (60) calendar days of the effective date of this decision, Respondent Vinh Tran
22 shall enroll in a course in ethics, at respondent's expense, approved in advance by the board or its
23 designee. Failure to initiate the course during the first year of probation, and complete it within
24 the second year of probation, is a violation of probation.

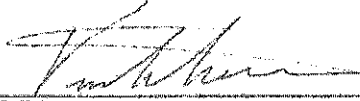
25 Respondent Vinh Tran shall submit a certificate of completion to the board or its designee
26 within five days after completing the course.

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ACCEPTANCE

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

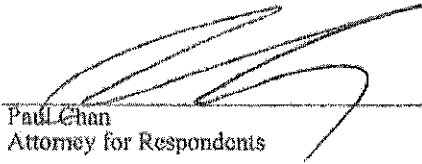
DATED: 1/15/2016



VINH LE TRAN, as an individual and as the authorized agent on behalf of TBT PHARMACY, INC., DOING BUSINESS AS TBT PHARMACY, INC.
Respondents

I have read and fully discussed with Respondents, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1/15/16


Paul Chan
Attorney for Respondents

ENDORSEMENT

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

DATED: 1/18/16

Respectfully submitted,

~~KATHALA D. HARRIS
Attorney General of California
GREGORY J. SALLUTE
Supervising Deputy Attorney General~~

DESIREE I. KEMLOGO
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5295

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
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6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5295

12 **TBT PHARMACY INC., DBA**
13 **TBT PHARMACY INC.**
14 **6552 Bolsa Avenue, Suite A**
Huntington Beach, CA 92647

ACCUSATION

15 **Pharmacy License No. PHY 50904**

16 **VINH LE TRAN**
17 **11462 Toscana Circle**
Stanton, CA 90680

18 **Pharmacist License No. RPH 59831**

19 Respondents.

20
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, Department of Consumer Affairs.

26 2. On or about March 14, 2012, the Board of Pharmacy issued Pharmacy Permit number
27 PHY 50904 to TBT Pharmacy, Inc., doing business as TBT Pharmacy, Inc. (Respondent TBT
28

1 Pharmacy.) The Pharmacy Permit was in full force and effect at all times relevant to the charges
2 brought herein and will expire on March 1, 2015, unless renewed.

3 3. On or about July 20, 2007, the Board of Pharmacy issued Pharmacist License number
4 RPH 59831 to Vinh Le Tran (Respondent Vinh Tran.) The Pharmacist License was in full force
5 and effect at all times relevant to the charges brought herein and will expire on August 31, 2016,
6 unless renewed.

7 JURISDICTION

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

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

14 6. Section 4300(a) of the Code provides that every license issued by the Board may be
15 suspended or revoked.

16 7. Section 4300.1 of the Code states:

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

21 STATUTORY AND REGULATORY PROVISIONS

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

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

25 ...

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

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9. Section 4113(c) of the Code states:

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

10. Section 4306.5 of the Code states, in pertinent part:

Unprofessional conduct for a pharmacist may include any of the following:

Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.

Acts or omissions that involve, in whole or in part, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function.

11. Section 1761 of title 16, California Code of Regulations states:

(a) No pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.

(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense a controlled substance prescription where the pharmacist knows or has objective reason to know that said prescription was not issued for a legitimate medical purpose.

COST RECOVERY

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

DRUG

13. Roxicodone is the brand name for oxycodone IR, a Schedule II controlled substance pursuant to Health and Safety Code section 11055(b) and a dangerous drug pursuant to Business and Professions Code section 4022.

1 **FACTUAL ALLEGATIONS**

2 14. From July 29, 2012 through the present, Respondent Vinh Tran has been the
3 Pharmacist-in-Charge of Respondent TBT Pharmacy.

4 15. On or about November 29, 2012, Respondents' account with one of their drug
5 wholesalers hit that wholesaler's limits for purchasing oxycodone. In or about January 2013, that
6 drug wholesaler conducted a compliance review and blocked Respondents from purchasing
7 controlled substances.

8 16. On or about January 16, 2013, during a conversation with Respondent Vinh Tran, the
9 drug wholesaler representative documented that Respondent Vinh Tran had filled Dr. T.P.'s
10 prescriptions for high quantity oxycodone without much question. On January 28, 2013, the drug
11 wholesaler representative had an extensive discussion with Respondent Vinh Tran about red flag
12 diversion issues. He informed Respondent Vinh Tran that complete due diligence needs to be
13 done on all patients paying for controlled substances prescriptions with cash.

14 17. Respondents filled and dispensed 159 prescriptions for controlled substances which
15 were written by Dr. T.P. from August 10, 2012 through November 8, 2013. Respondent TBT
16 Pharmacy and Dr. T.P.'s offices were an average of 31 miles (one way) from the patients'
17 addresses listed on prescriptions written by Dr. T.P. who was not specially trained in pain
18 management. Ninety-five percent of these patients paid for the controlled substance prescriptions
19 in cash at Respondent TBT Pharmacy and did not seek reimbursement from an insurance
20 company or government agency.

21 18. Respondents dispensed prescriptions for patients who were being prescribed
22 controlled substances by multiple prescribers at the same time and/or were filling prescriptions for
23 controlled substances at multiple pharmacies during the same time period. Prior to April 8, 2013,
24 Respondents did not have access to the Controlled Substance Utilization Review and Evaluation
25 System (CURES). A review of the prescription data information from CURES would have
26 revealed that Respondents were filling prescriptions for patients who were being prescribed
27 controlled substances by multiple prescribers at the same time and/or were filling prescriptions for
28 controlled substances at multiple pharmacies during the same time period.

1 19. On April 16, 2013, Respondents filled a prescription written by Dr. T.P. to patient
2 T.B. for a hydrocodone containing product when patient T.B. had received a 30 day supply of that
3 drug 15 days previously. On April 30, 2013, Respondents filled a prescription written by Dr. T.P.
4 to patient F.T. for 120 tablets for a 30 day supply of oxycodone which was a potentially fatal
5 increase in drug therapy from the amounts of hydrocodone medications prescribed to patient F.T.
6 during the preceding year. On May 13, 2013, Respondents filled a prescription written by Dr.
7 T.P. to patient J.G. for a 30 day supply of hydromorphone, 4mg four days after another pharmacy
8 had dispensed a 23 day supply of oxycodone 30 mg to J.G. Both drugs were very potent short
9 acting pain medications which were not safe to be used in combination. On May 13, 2013,
10 Respondents filled a prescription written by Dr. T.P. to patient D.T. for the highest strength of
11 oxycodone and for the shortest frequency, which could have been a fatal dosage.

12 20. In early October 2013, one of Respondents' drug wholesalers lifted the block
13 preventing Respondents from purchasing controlled substances. On October 8, 2013, Respondent
14 Vinh Tran told the drug wholesaler that the dispensing patterns had changed and that he was no
15 longer dispensing controlled substances prescriptions written by Dr. T.P. However, after a review
16 of Respondents' dispensing records, the drug wholesaler concluded that Respondents' dispensing
17 patterns had become more high risk than the dispensing patterns found at the initial compliance
18 review in January 2013. The drug wholesaler believed Respondents were a high risk and
19 reinitiated the block for purchasing controlled substances.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions,
22 Irregularities, Uncertainties, Ambiguities or Alterations against Respondents)**

23 21. Respondents are subject to disciplinary action under Code section 4301(o), for
24 violating title 16, California Code of Regulations, sections 1761(a) and (b) in that they dispensed
25 prescriptions for controlled substances, which contained significant errors, omissions,
26 irregularities, uncertainties, ambiguities or alterations, as set forth in paragraphs 14 through 20
27 above, which are incorporated herein by reference.

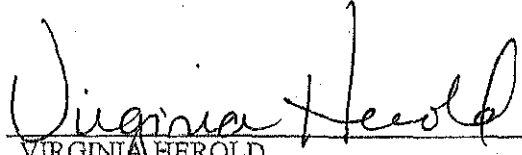
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4. Taking such other and further action as deemed necessary and proper.

DATED:

3/28/15



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

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