

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

In the Matter of the Accusation Against:

**SPECTRUM PHARMACY INC.,
DBA SPECTRUM PHARMACY –
ANAHEIM; NINA THIEN-NGA PHAM,
CHIEF EXECUTIVE
OFFICER/PHARMACIST-IN-CHARGE;
STEVEN DUNG TRUONG,
PHARMACIST-IN-CHARGE
1236 N. Magnolia Avenue
Pharmacy Permit No. PHY 50751**

**STEVEN DUNG TRUONG
Pharmacist License No. RPH 52822**

and

**NINA THIEN-NGA TRAN
Pharmacist License No. RPH 55935**

Respondents.

Case No. 5373

**STIPULATED SURRENDER OF
LICENSE AND ORDER AS TO
SPECTRUM PHARMACY – ANAHEIM
ONLY**

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on January 11, 2017.

It is so ORDERED on December 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 LINDA K. SCHNEIDER
Senior Assistant Attorney General
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Attorneys for Complainant

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

11 Case No. 5373

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13 **SPECTRUM PHARMACY INC.,**
14 **DBA SPECTRUM PHARMACY –**
ANAHEIM; NINA THIEN-NG PHAM,
15 **CHIEF EXECUTIVE**
OFFICER/PHARMACIST-IN-CHARGE;
16 **STEVEN DUNG TRUONG,**
PHARMACIST-IN-CHARGE
1236 N. Magnolia Avenue
17 Anaheim, CA 92801

STIPULATED SURRENDER OF
LICENSE AND ORDER AS TO
SPECTRUM PHARMACY - ANAHEIM
ONLY

18 Pharmacy Permit No. PHY 50751

19 **STEVEN DUNG TRUONG**

20 Pharmacist License No. RPH 52822

21 and

22 **NINA THIEN-NGA TRAN**

23 Pharmacist License No. RPH 55935

24 Respondents.

25
26 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
27 entitled proceedings that the following matters are true:

28 ///

1 PARTIES

2 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
3 (Board). She brought this action solely in her official capacity and is represented in this matter by
4 Kamala D. Harris, Attorney General of the State of California, by Antoinette Cincotta,
5 Supervising Deputy Attorney General.

6 2. Spectrum Pharmacy Inc., doing business as Spectrum Pharmacy – Anaheim
7 (Respondent Spectrum Pharmacy – Anaheim) is represented in this proceeding by attorney Ivan
8 Petrzelka, Pharm.D., J.D., whose address is 2855 Michelle Drive, Suite 180, Irvine, CA 92606.

9 3. On or about February 21, 2012, the Board of Pharmacy issued Pharmacy Permit No.
10 PHY 50751 to Respondent Spectrum Pharmacy - Anaheim. The Pharmacy Permit was in full
11 force and effect at all times relevant to the charges brought in Accusation No. 5373 and will
12 expire on February 1, 2017, unless renewed.

13 JURISDICTION

14 4. Accusation No. 5373 was filed before the Board, and is currently pending against
15 Respondent Spectrum Pharmacy - Anaheim. The Accusation and all other statutorily required
16 documents were properly served on Respondent Spectrum Pharmacy - Anaheim on April 29,
17 2016. Respondent Spectrum Pharmacy - Anaheim timely filed its Notice of Defense contesting
18 the Accusation. A copy of Accusation No. 5373 is attached as Exhibit A, and incorporated by
19 reference.

20 ADVISEMENT AND WAIVERS

21 5. Respondent Spectrum Pharmacy - Anaheim has carefully read, fully discussed with
22 counsel, and understands the charges and allegations in Accusation No. 5373. Respondent
23 Spectrum Pharmacy - Anaheim also has carefully read, fully discussed with counsel, and
24 understands the effects of this Stipulated Surrender of License and Order.

25 6. Respondent Spectrum Pharmacy - Anaheim is fully aware of its legal rights in this
26 matter, including the right to a hearing on the charges and allegations in the Accusation; the right
27 to confront and cross-examine the witnesses against them; the right to present evidence and to
28 testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of

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

4 7. Respondent Spectrum Pharmacy - Anaheim voluntarily, knowingly, and intelligently
5 waives and gives up each and every right set forth above.

6 CULPABILITY

7 8. Respondent Spectrum Pharmacy - Anaheim understands that the charges and
8 allegations in Accusation No. 5373, if proven at a hearing, constitute cause for imposing
9 discipline upon its Pharmacy Permit.

10 9. For the purpose of resolving the Accusation without the expense and uncertainty of
11 further proceedings, Respondent Spectrum Pharmacy - Anaheim agrees that, at a hearing,
12 Complainant could establish a factual basis for the charges in the Accusation and that those
13 charges constitute cause for discipline. Respondent Spectrum Pharmacy - Anaheim hereby gives
14 up its right to contest that cause for discipline exists based on those charges.

15 10. Respondent Spectrum Pharmacy - Anaheim understands that by signing this
16 stipulation it enables the Board to issue an order accepting the surrender of Pharmacy Permit No.
17 50751 without further process.

18 CONTINGENCY

19 11. This stipulation shall be subject to approval by the Board. Respondent Spectrum
20 Pharmacy - Anaheim understands and agrees that counsel for Complainant and the staff of the
21 Board may communicate directly with the Board regarding this stipulation and surrender, without
22 notice to or participation by Respondent Spectrum Pharmacy - Anaheim or its counsel. By
23 signing the stipulation, Respondent Spectrum Pharmacy - Anaheim understands and agrees that
24 they may not withdraw its agreement or seek to rescind the stipulation prior to the time the Board
25 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
26 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
27 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
28 be disqualified from further action by having considered this matter.

1 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
3 thereto, shall have the same force and effect as the originals.

4 13. This Stipulated Surrender of License and Order is intended by the parties to be an
5 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
6 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
7 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
8 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
9 executed by an authorized representative of each of the parties.

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

12 **ORDER**

13 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 50751, issued to Respondent
14 Spectrum Pharmacy - Anaheim, is surrendered and accepted by the Board of Pharmacy.

15 1. Respondent Spectrum Pharmacy - Anaheim surrenders Pharmacy Permit No. PHY
16 50751 as of the effective date of this Decision. Respondent Spectrum Pharmacy - Anaheim shall
17 relinquish the premises wall license and renewal license to the Board within ten (10) days of the
18 effective date of this Decision.

19 2. The surrender of Respondent Spectrum Pharmacy - Anaheim's license and the
20 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
21 against Respondent Spectrum Pharmacy - Anaheim. This Decision constitutes a record of
22 discipline and shall become a part of Respondent Spectrum Pharmacy - Anaheim's license history
23 with the Board.

24 3. Respondent Spectrum Pharmacy - Anaheim shall, within ten (10) days of the
25 effective date, arrange for the destruction of, the transfer to, sale of or storage in a facility
26 licensed by the Board of all controlled substances and dangerous drugs and devices, as well as,
27 the records of acquisition and disposition for those dangerous drugs. Respondent Spectrum

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1 Pharmacy - Anaheim shall further provide written proof of such disposition and submit a
2 completed Discontinuance of Business form according to Board guidelines.

3 4. Respondent Spectrum Pharmacy - Anaheim shall also, by the effective date of this
4 Decision, arrange for the continuation of care for existing patients of the pharmacy by, at
5 minimum, providing a written notice to existing patients that specifies the anticipated closing date
6 of the pharmacy and that identifies one or more area pharmacies capable of taking up the patients'
7 care, and by cooperating as may be necessary in the transfer of records or prescriptions for
8 existing patients. Within five days of its notice to the pharmacy's existing patients, Respondent
9 Spectrum Pharmacy - Anaheim shall provide a copy of the written notice to the Board. For the
10 purposes of this provision, "existing patients" means those patients for whom the pharmacy has
11 on file a prescription with one or more refills outstanding, or for whom the pharmacy has filled a
12 prescription within the preceding sixty (60) days.

13 5. If Respondent Spectrum Pharmacy - Anaheim ever applies for an application for a
14 licensed premises or a petition for reinstatement in the State of California, the Board shall treat it
15 as a new application for licensure. Respondent Spectrum Pharmacy - Anaheim must comply with
16 all the laws, regulations, and procedures for licensure in effect at the time the application or
17 petition is filed, and all of the charges and allegations contained in Accusation No. 5373 shall be
18 deemed to be true, correct and admitted by Respondent when the Board determines to grant or
19 deny the application or petition.

20 Respondent owner may not apply for any new licensure from the board for three (3) years
21 from the effective date of the surrender. Respondent owner shall meet all requirements applicable
22 to the license sought as of the date the application for that license is submitted to the board.

23 6. Respondent Spectrum Pharmacy - Anaheim shall pay the agency its costs of
24 investigation and enforcement in the amount of \$11,539.87. Respondent Spectrum Pharmacy -
25 Anaheim agrees to be jointly and severally liable for the payment of costs with Nina Thien-Ng
26 Pham, aka Nina Thien-Ng Tran. The filing of bankruptcy by Respondent Spectrum Pharmacy -
27 Anaheim shall not relieve Respondent Spectrum Pharmacy - Anaheim of the responsibility to
28 reimburse the Board its costs of investigation and enforcement.

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7. In the event that Respondent Spectrum Pharmacy – Anaheim is sold and an application for a new permit is submitted to the Board, the Board shall expedite the processing of that application only if the new owner requests a temporary license as authorized in Business and Professions Code section 4110.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Ivan Petrzelka, Pharm.D., J.D. I understand the stipulation and the effect it will have on Pharmacy Permit No. PHY 50751. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

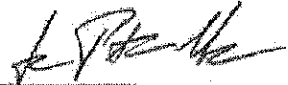
DATED: 11/04/16



NINA THIEN-NGA PHAM,
aka, NINA THIEN-NGA TRAN, as an officer and
authorized agent on behalf of SPECTRUM
PHARMACY – ANAHEIM,
Respondent

I have read and fully discussed with Respondent Spectrum Pharmacy - Anaheim, the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: November 7, 2016



IVAN PETRZELKA, PHARM.D., J.D.
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: *November 8, 2016*

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California

James M. Lusk for A.B. Cincotta
ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5373

1. KAMALA D. HARRIS
Attorney General of California
2. ANTOINETTE CINCOTTA
Supervising Deputy Attorney General
3. NICOLE R. TRAMA
Deputy Attorney General
4. State Bar No. 263607
110 West "A" Street, Suite 1100
5. San Diego, CA 92101
P.O. Box 85266
6. San Diego, CA 92186-5266
Telephone: (619) 645-2143
7. Facsimile: (619) 645-2061
Attorneys for Complainant

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

12. In the Matter of the Accusation Against:

Case No. 5373

13. SPECTRUM PHARMACY INC.,
DBA SPECTRUM PHARMACY - ANAHEIM;
14. NINA THIEN-NG PHAM, CHIEF
EXECUTIVE OFFICER/PHARMACIST-IN-
15. CHARGE;
STEVEN DUNG TRUONG, PHARMACIST-
16. IN-CHARGE
1236 N. Magnolia Avenue
17. Anaheim, CA 92801

ACCUSATION

18. Pharmacy Permit No. PHY 50751

19. STEVEN DUNG TRUONG
18 Endeavor 100
20. Irvine, CA 92618

21. Pharmacist License No. RPH 52822

22. and

23. NINA THIEN-NGA TRAN
1236 N. Magnolia Avenue
24. Anaheim, CA 92801

25. Pharmacist License No. RPH 55935

26. Respondents.

1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about February 21, 2012, the Board issued Pharmacy Permit Number PHY
6 50751 to Spectrum Pharmacy Inc., to do business as Spectrum Pharmacy - Anaheim (Respondent
7 Spectrum - Anaheim). The Pharmacy Permit was in full force and effect at all times relevant to
8 the charges brought herein, and will expire on February 1, 2017, unless renewed.

9 3. On or about September 5, 2001, the Board issued Pharmacist License No. RPH 52822
10 to Steven Dung Truong (Respondent Truong). The Pharmacist License was in full force and
11 effect at all times relevant to the charges brought herein, and will expire on January 31, 2017,
12 unless renewed.

13 4. On or about August 4, 2004, the Board issued Pharmacist License No. RPH 55935 to
14 Nina Thien-Nga Tran (Respondent Nina Tran). The Pharmacist License was in full force and
15 effect at all times relevant to the charges brought herein, and will expire on December 31, 2017,
16 unless renewed.

17 **JURISDICTION**

18 5. This Accusation is brought before the Board, under the authority of the following
19 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

23 7. Section 4300(a) of the Code provides that every license issued by the Board may be
24 suspended or revoked.

25 8. Section 4300.1 of the Code states:

26 The expiration, cancellation, forfeiture, or suspension of a board-issued
27 license by operation of law or by order or decision of the board or a court of law,
28 the placement of a license on a retired status, or the voluntary surrender of a
license by a licensee shall not deprive the board of jurisdiction to commence or

1 proceed with any investigation of, or action or disciplinary proceeding against, the
licensee or to render a decision suspending or revoking the license.

2 9. Section 4307(a) of the Code states:

3 (a) Any person who has been denied a license or whose license has been
4 revoked or is under suspension, or who has failed to renew his or her license while
5 it was under suspension, or who has been a manager, administrator, owner,
6 member, officer, director, associate, or partner of any partnership, corporation,
7 firm, or association whose application for a license has been denied or revoked, is
8 under suspension or has been placed on probation, and while acting as the
9 manager, administrator, owner, member, officer, director, associate, or partner had
knowledge of or knowingly participated in any conduct for which the license was
denied, revoked, suspended, or placed on probation, shall be prohibited from
serving as a manager, administrator, owner, member, officer, director, associate, or
partner of a licensee as follows:

10 (1) Where a probationary license is issued or where an existing license is
11 placed on probation, this prohibition shall remain in effect for a period not to
exceed five years.

12 (2) Where the license is denied or revoked, the prohibition shall continue
13 until the license is issued or reinstated.

14 STATUTORY PROVISIONS

15 10. Section 4022 of the Code states:

16 "Dangerous drug" or "dangerous device" means any drug or device unsafe
17 for self-use in humans or animals, and includes the following:

18 (a) Any drug that bears the legend: "Caution: federal law prohibits
dispensing without prescription," "Rx only," or words of similar import.

19 (b) Any device that bears the statement: "Caution: federal law restricts this
20 device to sale by or on the order of a _____," "Rx only," or words of similar import,
21 the blank to be filled in with the designation of the practitioner licensed to use or
order use of the device.

22 (c) Any other drug or device that by federal or state law can be lawfully
23 dispensed only on prescription or furnished pursuant to Section 4006.

24 11. Section 4113, subdivision (c) of the Code states: "The pharmacist-in-charge shall be
25 responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining
26 to the practice of pharmacy."

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12. Section 4301 of the Code states:

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

....

(c) Gross negligence.

....

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

....

(o) Violating or attempting to violate, directly or indirectly, or assisting in or 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 pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

....

13. Health and Safety Code section 11153 states in pertinent part:

(a) A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

REGULATORY PROVISIONS

14. Code of Federal Regulations, title 21, section 1306.04 states in pertinent part:

(a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual

1 course of his professional practice. The responsibility for the proper prescribing
2 and dispensing of controlled substances is upon the prescribing practitioner, but a
3 corresponding responsibility rests with the pharmacist who fills the prescription.
4 An order purporting to be a prescription issued not in the usual course of
5 professional treatment or in legitimate and authorized research is not a prescription
6 within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the
7 person knowingly filling such a purported prescription, as well as the person
8 issuing it, shall be subject to the penalties provided for violations of the provisions
9 of law relating to controlled substances.

10
11
12 15. California Code of Regulations, title 16, section 1761 states:

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

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

21 COST RECOVERY

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

28 DRUGS

17. At all times mentioned herein, Hydrocodone/APAP was a Schedule III controlled
substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous
drug pursuant to Business and Professions Code section 4022. On October 6, 2014,
Hydrocodone/APAP was reclassified as a Schedule II controlled substance.

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1 18. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
2 section 11055, subdivision (b)(1)(M), and a dangerous drug pursuant to Business and Professions
3 Code section 4022.

4 19. Promethazine with codeine is a Schedule V controlled substance pursuant to Health
5 and Safety Code section 11058, subdivision (c)(1), and a dangerous drug pursuant to Business
6 and Professions Code section 4022.

7 **FACTUAL ALLEGATIONS**

8 20. From February 21, 2012 through October 1, 2012, Respondent Truong was
9 Pharmacist-in-Charge (PIC) of Respondent Spectrum – Anaheim. Prior to October 5, 2012,
10 Respondent Nina Tran was a staff pharmacist at Respondent Spectrum – Anaheim. On October
11 5, 2012, Respondent Nina Tran became the PIC of Respondent Spectrum - Anaheim.

12 21. In October, 2012, during a Board inspection at Respondent Spectrum - Anaheim; it
13 was discovered that Respondents dispensed several prescriptions written by Dr. J.A.¹ in sequence
14 for different out-of-the-area patients with the same or similar diagnosis,² for the same exact drug
15 and dosage (oxycodone 30 mg), with similar directions for use, and on the same day. Examples
16 are as follows:

17 a. On August 2, 2012, Respondent Spectrum – Anaheim dispensed RX No.
18 200014 for oxycodone 30 mg to patient L.C., whose address is in Los Angeles. That same day,
19 Respondent Spectrum – Anaheim dispensed RX No. 200015 for oxycodone 30 mg to patient
20 M.R., whose address is in Los Angeles. The prescriptions were written in sequence and
21 dispensed in sequence.

22 b. On August 8, 2012, Respondent Nina Tran dispensed RX No. 200017 for
23 oxycodone 30 mg to patient A.G., whose address is in Huntington Park. That same day,
24 Respondent Nina Tran dispensed RX No. 200018 for oxycodone 30 mg for patient E.H., whose
25 address is in Los Angeles.

26
27 ¹ Dr. J.A.'s practice, Pure Life Institute, specializes in hormone replacement and anti-
aging.

28 ² The diagnoses were either osteoarthritis or back pain.

1 c. On August 9, 2012, Respondent Nina Tran dispensed RX No. 200020 for
2 oxycodone 30 mg to patient M.D.P., whose address is in Lynwood. That same day, Respondent
3 Nina Tran dispensed RX No. 200023 for oxycodone 30 mg for patient R.S., whose address is in
4 Koreatown.

5 d. On August 21, 2012, Respondent Nina Tran dispensed RX No. 200029 for
6 oxycodone 30 mg to patient J.M., whose address is in Vernon. That same day, Respondent Nina
7 Tran dispensed RX No. 200030 for oxycodone 30 mg to patient E.C., whose address is in Los
8 Angeles.

9 e. On August 30, 2012, Respondent Nina Tran dispensed RX No. 200032 for
10 oxycodone 30 mg to patient M.P., whose address is in Commerce. That same day, Respondent
11 Nina Tran dispensed RX No. 200033 for oxycodone 30 mg to patient L.C., whose address is in
12 Commerce. The prescriptions were written in sequence and dispensed in sequence.

13 f. On September 11, 2012, Respondent Spectrum – Anaheim dispensed RX No.
14 200040 for oxycodone 30 mg to patient A.G., who address is in Huntington Park. The next day,
15 on September 12, 2012, Respondent Nina Tran dispensed RX No. 200041 for oxycodone 30 mg
16 to patient R.S., whose address is in Koreatown. Also, on September 12, 2012, Respondent Nina
17 Tran dispensed RX No. 200042 for oxycodone 30 mg to patient M.J., whose address is in Vernon.

18 22. When initially questioned, Respondent Nina Tran stated that Respondent Spectrum—
19 Anaheim no longer filled Dr. J.A.'s prescriptions because she did not trust the patients.

20 23. Review of Respondent Spectrum – Anaheim's records revealed that Respondents
21 dispensed controlled substances to the following nine out-of-area patients, who doctor-shopped
22 and pharmacy-shopped:³

23 24. Patient LC

24 Patient L.C., who was born in 1940, resided in Los Angeles. Between January 2009
25 and February 2013, L.C. obtained controlled substances from ten different doctors from Los

26 ³ Most of the patients' diagnoses were the same. All nine of the patients received
27 oxycodone prescriptions in the same strength (30 mg) with directions to take either 1 or 2 tablets
28 every 8 hours. Although the patients' age range from 65-76 years old, all of the doses were the
same without regard to age, renal, or hepatic function, in which doses would need to be titrated.

1 Angeles, Encino, Panorama City, Monterey Park, Northridge, Tustin and Stockton, and she
2 obtained controlled substances from eleven different pharmacies in Burbank, Los Angeles,
3 Ontario, Arcadia, Monterey Park, Santa Ana, Pomona, and Pico Rivera. Respondent Spectrum --
4 Anaheim dispensed two prescriptions to L.C. for oxycodone 30 mg, RX No. 200014 on August 2,
5 2012 and RX No. 200033 on August 30, 2012 (dispensed by Respondent Nina Tran). Both
6 prescriptions were written by Dr. J.A., whose office is approximately 30 miles from L.C.'s
7 address. Both prescriptions show that L.C. was taking 2 tablets of oxycodone every eight hours,
8 for a total of six tablets per day. Respondent Anaheim -- Spectrum's records showed that L.C.
9 had orthoarthritis, but there were no other notes indicating that the pharmacist questioned or
10 verified the large dose or frequency of the prescribed medication, or why L.C. was not taking a
11 long-acting drug, such as Oxycontin, along with the shorter acting formulation for breakthrough
12 pain.

13 25. Patient MDP

14 Patient M.D.P.'s, who was born in 1936, resided in Lynwood. From May 2009 to
15 September 2012, M.D.P. saw at least eleven physicians in Los Angeles, Tustin, Redondo Beach,
16 Encino, Panorama City, Northridge, Stockton, and Culver City, who prescribed her controlled
17 substances, and she obtained controlled substances from twelve different pharmacies in Newhall,
18 Los Angeles, Gardena, Lynwood, Burbank, Ontario, Commerce, Baldwin Park, North
19 Hollywood, and Santa Ana. Respondent Nina Tran dispensed two prescriptions to M.P., RX No.
20 200020 on August 9, 2012 and RX No. 200036 on September 6, 2012, for oxycodone 30 mg with
21 instructions to take 1-2 tablets every eight hours. Both prescriptions were written by Dr. J.A.,
22 whose office is approximately 30 miles from M.D.P.'s address. Respondent Anaheim --
23 Spectrum's records showed no indication that Respondents questioned or verified the
24 prescriptions prior to dispensing them to M.D.P. Instead, the records show that Respondents
25 received information from the prescriber about this patient's diagnosis on September 28, 2012,
26 twenty-two days after they filled her prior prescription.

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1 26. Patient A.G.

2 Patient A.G., who was born in 1944, resided in South Gate. The address that Patient A.G.
3 provided to Respondents, which was in Huntington Park, actually belonged to a warehouse.
4 From May 2009 to August, 2012, A.G. saw at least five physicians in Huntington Park,
5 Inglewood, Northridge, Panorama City, Los Angeles, and Tustin who prescribed her controlled
6 substances and, she obtained controlled substances from seven pharmacies in Huntington Park,
7 Lynwood, Arcadia, Burbank, Woonsocket, and Santa Ana prior to receiving medications from
8 Respondents. Respondents dispensed two prescriptions for oxycodone 30 mg, RX No. 200017 on
9 August 8, 2012 (dispensed by Respondent Nina Tran) and RX No. 200040 on September 11,
10 2012. Both prescriptions were written by Dr. J.A., whose office is approximately 32 miles from
11 A.G.'s address. Respondent Anaheim - Spectrum's records showed that A.G. had osteoarthritis,
12 but there were no other notes indicating that the pharmacist questioned the prescriber or patient
13 about the length of time that A.G. had taken the drug or if the patient had tried any other
14 therapies.

15 27. Patient E.H.

16 Patient E.H., who was born in 1942, resided in Los Angeles. From November 2010 to
17 August 2012, E.H. obtained controlled substances from at least six pharmacies prior to receiving
18 medications from Respondents. On August 8, 2012, Respondent Nina Tran dispensed to E.H.,
19 RX No. 200018 for oxycodone 30 mg, written by Dr. J.A., whose office is approximately 35
20 miles from E.H.'s address. Respondents did not receive information from the prescriber about
21 this patient's diagnosis until September 28, 2012, fifty-one days after they filled E.H.'s
22 prescription. Respondent Anaheim - Spectrum's records showed no other indication that the
23 pharmacist clarified the prescription with E.H. or the doctor, or that they questioned the other
24 medications that E.H. was using or had tried.

25 28. Patient M.J.

26 Patient M.J., who was born in 1947, resided in Los Angeles. From May 2010 to August
27 2012, M.J. saw at least five different physicians in Los Angeles, Northridge, and Stockton, who
28 prescribed her controlled substances. Between that time period, M.J. obtained controlled

1 substances from at least seven pharmacies in Huntington Park, Ontario, Los Angeles, Lynwood,
2 Burbank, Hacienda Heights, and Santa Ana, prior to receiving medications from Respondents.
3 Respondent Nina Tran dispensed two prescriptions for oxycodone 30 mg to M.J., RX No. 200026
4 on August 17, 2012 and RX No. 200042 on September 12, 2012. Both prescriptions were written
5 by Dr. J.A., whose address is approximately 33 miles from M.J.'s address. Respondents did not
6 receive information from the prescriber about this patient's diagnosis until September 28, 2012,
7 sixteen days after M.J.'s last prescription was filled by Respondents.

8 29. Patient J.M.

9 Patient J.M., who was born in 1940, resides in Los Angeles. From October 2009 to August
10 2012, J.M. saw at least nine different physicians in Los Angeles, Encino, Panorama City,
11 Northridge, Stockton, and Tustin, who prescribed him controlled substances, and he obtained
12 controlled substances from at least six different pharmacies in Burbank, Los Angeles, Lynwood,
13 Oxnard, and Santa Ana, prior to receiving medications from Respondents. Respondent Nina Tran
14 dispensed RX No. 200029 for oxycodone 30 mg on August 21, 2012, written by Dr. J.A., whose
15 address is approximately 37 miles from J.M.'s address. Respondents did not receive information
16 from the prescriber about this patient's diagnosis until September 28, 2012, thirty-eight days after
17 the prescription was filled by Respondents.

18 30. Patient M.P.

19 Patient M.P., who was born in 1941, resided in Los Angeles.⁴ Between October 2009 and
20 August 2012, M.P. saw nine physicians in Los Angeles, Encino, Panorama City, Northridge,
21 Glendale, Stockton, and Tustin, who prescribed him controlled substances, and he obtained
22 controlled substances from at least nine pharmacies in Burbank, Reseda, Lynwood, Van Nuys,
23 Ontario, Los Angeles, Arcadia, Santa Ana, and Pico Rivera, prior to receiving medications from
24 Respondents. Respondents dispensed two prescriptions for oxycodone 30 mg to M.P., RX No.
25 200015 on August 2, 2012 and RX No. 200032 (dispensed by Respondent Nina Tran) on August
26 30, 2012. Both prescriptions were written by Dr. J.A., whose office is approximately 30 miles
27

28 ⁴ Patient M.P. had the same address and phone number as Patient L.C.

1 from M.P.'s address. Both prescriptions also had "Dx: back pain" written on them; however,
2 there is no other documentation or records showing that the pharmacist spoke to the doctor or
3 M.P. about M.P.'s previous or current therapies, or that either prescription had been verified.

4 31. Patient R.S.

5 Patient R.S., who was born in 1938, resided in Los Angeles. Between May 2009 and
6 August 2012, R.S. saw fourteen physicians who prescribed him controlled substances. During
7 that same timeframe, he obtained controlled substances from at least nineteen pharmacies in
8 Stanton, Fountain Valley, Mission Viejo, Huntington Beach, South Pasadena, Redlands, Palm
9 Desert, Apple Valley, Ontario, Gardena, Rancho Palos Verdes, Alhambra, Reseda, Burbank,
10 Orange, Woonsocket, and Santa Ana, prior to receiving medications from Respondents.
11 Respondent Nina Tran dispensed two prescriptions for oxycodone 30 mg to R.S., RX 200023 on
12 August 14, 2012 and RX No. 200041 on September 12, 2012. Both prescriptions were written by
13 Dr. J.A., whose office is approximately 38 miles from R.S.'s address. Both prescriptions have a
14 note that states, "chronic intractibal [sic] pain lower lumbar," however, there is not other
15 documentation or records showing that the pharmacist spoke to the doctor or R.S. about the
16 prescriptions.

17 32. Patient E.C.

18 Patient E.C., who was born in 1936, resided in Los Angeles. From July 2010 to August
19 2012, E.C. saw at least five different physicians in Northridge, Stockton, Los Angeles and Tustin,
20 who prescribed her controlled substances and she obtained controlled substances from at least six
21 pharmacies in Lynwood, Burbank, Alhambra, Los Angeles, Santa Ana, and Pico Rivera, prior to
22 receiving medications from Respondents. Respondent Nina Tran dispensed to E.C. RX No.
23 200030 for oxycodone 30 mg on August 21, 2012, written by Dr. J.A., whose office is
24 approximately 37 miles from E.C.'s address. The diagnosis written in the upper left corner of the
25 prescription states that the patient had a lower lumbar fracture. On August 23, 2012, Respondents
26 also dispensed RX No. 400156 for Zolpidem 10 mg written by Dr. J.A. Respondents refilled that
27 prescription on September 17, 2012.
28

1 33. In addition to Dr. J.A., many patients also regularly obtained controlled substances
2 from the same prescribers, including Drs. G.H., B.O., J.G., K.G., E.C., and Physician Assistants
3 (PA) D.N. and B.E. For example, of the nine patients described above, eight obtained controlled
4 substances from Dr. B.O.,⁵ seven obtained controlled substances from Dr. J.G., six obtained
5 controlled substances from PA B.E.,⁶ five obtained controlled substances from Dr. K.G.,⁷ four
6 obtained controlled substances from Drs. G.H. and E.C.,⁸ and three obtained controlled
7 substances from PA D.N.⁹

8 34. Patients also obtained controlled substances from the same pharmacies, including
9 Respondent Spectrum - Anaheim. For example, of the nine patients that obtained controlled
10 substances from Respondent Spectrum - Anaheim, all nine obtained controlled substances from
11 Assured Pharmacy and Harmony RX Drugs, and seven obtained controlled substances from W&P
12 Pharmacy.

13 FIRST CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct - Failure to Implement Corresponding Responsibility)

15 35. Respondents are subject to disciplinary action for unprofessional conduct under Code
16 section 4301, subdivision (j), for violation of Health and Safety Code section 11153, subdivision
17 (a), in that Respondents failed to comply with their corresponding responsibility to ensure that
18 controlled substances are dispensed for a legitimate medical purpose. The circumstances are that
19 Respondents failed to evaluate the totality of the circumstances (information from the patient,
20 physician, CURES and other sources) to determine the prescriptions' were issued for a legitimate
21 medical purpose in light of information showing that several patients demonstrated drug seeking

22 ⁵ Dr. B.O.'s medical license was revoked by the Medical Board of California, effective
23 November 14, 2014.

24 ⁶ On December 19, 2014, the Physician Assistant Board filed an Accusation against PA
25 B.E.'s physician assistant license, alleging twelve causes for discipline, including prescribing
26 dangerous drugs and controlled substances without an appropriate prior examination and violating
27 state statutes regulating controlled substances.

28 ⁷ Dr. K.G.'s medical license was disciplined by the Medical Board of California, effective
December 16, 2009.

⁸ Dr. E.C.'s medical license was surrendered effective November 6, 2015, following the
Medical Board's filing of an Accusation against him.

⁹ PA D.N.'s physician assistant license was disciplined by the Physician Assistant Board
effective April 11, 2005 after committing repeated acts of negligence.

1 behaviors such as doctor and pharmacy shopping, numerous patients had addresses outside
2 Respondents' normal trade area, and several patients came into Respondent Pharmacy in
3 sequence from the same doctor with prescriptions for the same drug and strength on the same day,
4 among other things, as set forth in paragraphs 20 through 34, which are incorporated herein by
5 reference.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct – Filling Erroneous or Uncertain Prescriptions)**

8 36. Respondents are subject to disciplinary action for unprofessional conduct under Code
9 section 4301, subdivision (p), for violating California Code of Regulations, title 16, section 1761
10 for filling erroneous or uncertain prescriptions in that Respondents dispensed prescriptions
11 containing errors, irregularities, or uncertainties to patients, as set forth in paragraphs 20 through
12 34, which are incorporated herein by reference.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct – Gross Negligence)**

15 37. Respondents are subject to disciplinary action for unprofessional conduct under Code
16 section 4301, subdivision (c), in that Respondents were grossly negligent in dispensing controlled
17 substances. The circumstances are that Respondents knew or should have known that the
18 controlled substances dispensed to patients were likely to be used for other than a legitimate
19 medical purpose and Respondent failed to take appropriate steps when presented with numerous
20 controlled substance prescriptions by patients from the same doctor for the same drug and
21 strength on the same day and who came into Respondent Pharmacy in sequence. Respondent
22 failed to perform additional investigation to determine whether the prescriptions were issued for a
23 legitimate medical purpose, as set forth in paragraphs 20 through 34, which are incorporated
24 herein by reference.

25 **DISCIPLINARY CONSIDERATIONS**

26 38. To determine the degree of discipline, if any, to be imposed on Respondent Truong,
27 Complainant alleges that on or about July 25, 2013, in a prior action, the Board of Pharmacy
28 issued Citation Number CI 2011 52553 to Respondent Truong for violation of Business and

1 Professions Code section 4301, subdivisions (f), unprofessional conduct: acts of moral turpitude,
2 dishonesty, fraud deceit or corruption, and subdivision (g), knowingly making or signing any
3 certificate or other document that falsely represents the existence or nonexistence of a fact; and
4 Business and Professions Code section 4342 for drugs lacking quality and strength, and assessed
5 a fine in the amount of \$2,500.00. That Citation is now final and is incorporated by reference as
6 if fully set forth.

7 39. The circumstances that led to the citation are that in January and February 2012,
8 Respondent Truong was the pharmacist-in-charge at Santa Elena Pharmacy. On or about
9 February 10, 2012, during a Board inspection, it was discovered that Santa Elena Pharmacy failed
10 to reverse insurance claims for a patient who did not receive the medication the patient was
11 charged for receiving. In addition, Santa Elena Pharmacy had several medications that were in
12 repackaged bottles and vials with improper labels.

13 OTHER MATTERS

14 40. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
15 PHY 50751 issued to Spectrum Pharmacy Inc., DBA Spectrum – Anaheim, and Steven Dung
16 Truong and/or Nina Thien-Nga Tran, while acting as the manager, administrator, owner, member,
17 officer, director, associate, or partner of Spectrum Pharmacy Inc., DBA Spectrum – Anaheim, had
18 knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY
19 50751 issued to Spectrum Pharmacy Inc., DBA Spectrum – Anaheim was revoked, suspended or
20 placed on probation, Steven Dung Truong, and/or Nina Thien-Nga Tran shall be prohibited from
21 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
22 licensee for five years if Pharmacy Permit Number PHY 50751 issued to Spectrum Pharmacy
23 Inc., DBA Spectrum – Anaheim is placed on probation or until Pharmacy Permit Number PHY
24 50751 issued to Spectrum Pharmacy Inc., DBA Spectrum – Anaheim is reinstated if it is revoked.

25 PRAYER

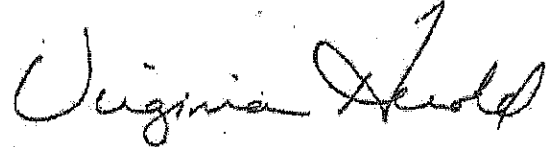
26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board of Pharmacy issue a decision:

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1. Revoking or suspending Pharmacy Permit Number PHY 50751, issued to Spectrum Pharmacy Inc., DBA Spectrum – Anaheim;
2. Revoking or suspending Pharmacist License No. RPH 52822, issued to Steven Dung Truong;
3. Revoking or suspending Pharmacist License No. RPH 55935 to Nina Thien-Nga Tran;
4. Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
5. Prohibiting Respondents Steven Dung Truong and Nina Thien-Nga Tran from serving as a manager, administrator, owner, member, officer, director, associate or partner of a licensee for a period not to exceed five years in the case of probation, or in the case of revocation, until the license is reinstated.
6. Taking such other and further action as deemed necessary and proper.

DATED: 4/16/16



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

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