

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

In the Matter of the Accusation Against:

Case Nos. 5358 and 5373

**SPECTRUM PHARMACY;
TING LI, TREASURER/CHIEF FINANCIAL
OFFICER;
NINA THIEN-NGA PHAM, CHIEF EXECUTIVE
OFFICER;
STEVEN DUNG TRUONG, PHARMACIST-IN-
CHARGE
Pharmacy Permit No. PHY 48836**

**STIPULATED
SETTLEMENT AND
DISCIPLINARY ORDER AS
TO NINA THIEN-NGA TRAN
ONLY**

**TING LI
Pharmacist License No. RPH 57363**

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

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

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

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

and

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

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 January 11, 2017.

It is so ORDERED on December 12, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Amy Gutierrez", written in a cursive style.

By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 ANTOINETTE B. CINCOTTA
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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:
13 **SPECTRUM PHARMACY;**
TING LI, TREASURER/CHIEF FINANCIAL
14 **OFFICER;**
NINA THIEN-NG PHAM, CHIEF EXECUTIVE
15 **OFFICER;**
STEVEN DUNG TRUONG, PHARMACIST-IN-
16 **CHARGE**

17 Pharmacy Permit No. PHY 48836

18 and

19 **TING LI**

20 Pharmacist License No. RPH 57363

21 and

22 **STEVEN DUNG TRUONG**

23 Pharmacist License No. RPH 52822

24 and

25 **NINA THIEN-NGA TRAN**
1236 N. Magnolia Avenue
26 Anaheim, CA 92801

27 Pharmacist License No. RPH 55935

28 Respondent.

Case Nos. 5358 and 5373

STIPULATED
SETTLEMENT AND
DISCIPLINARY ORDER AS
TO NINA THIEN-NGA TRAN
ONLY

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STIPULATED SETTLEMENT AND DISCIPLINARY ORDER AS TO NINA THIEN-NGA TRAN ONLY (Case
Nos. 5358 and 5373)

1 In the Matter of the Accusation Against:

2 SPECTRUM PHARMACY INC., DBA SPECTRUM
3 PHARMACY - ANAHEIM;
4 NINA THIEN-NG PHAM, CHIEF EXECUTIVE
5 OFFICER/PHARMACIST-IN-CHARGE;
6 STEVEN DUNG TRUONG, PHARMACIST-IN-
7 CHARGE

8 Pharmacy Permt No. PHY 50751

9 STEVEN DUNG TRUONG

10 Pharmacist License No. RPH 52822

11 and

12 NINA THIEN-NGA TRAN
13 1236 N. Magnolia Avenue
14 Anaheim, CA 92801

15 Pharmacist License No. RPH 55935

16 Respondents.

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

19 PARTIES

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

24 2. Respondent Nina Thien-Nga Tran (Respondent) is represented in this proceeding by
25 attorney Ivan Petzelka, Pharm.D., J.D., whose address is: 2855 Michelle Drive, Ste. 180, Irvine,
26 CA 92606.

27 3. On or about August 4, 2004, the Board of Pharmacy issued Pharmacist License No.
28 RPH 55935 to Respondent. The Pharmacist License was in full force and effect at all times
relevant to the charges brought in Accusation No. 5358 and 5373, and will expire on December
31, 2017, unless renewed.

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1 JURISDICTION

2 4. Accusation Nos. 5358 and 5373 were filed before the Board, and are currently
3 pending against Respondent. Accusation No. 5358 and all other statutorily required documents
4 were properly served on Respondent on April 27, 2016. Accusation No. 5373 and all other
5 statutorily required documents were properly served on Respondent on April 29, 2016.
6 Respondent timely filed her Notice of Defense contesting the Accusations.

7 5. Copies of Accusation Nos. 5358 and 5373 are attached as Exhibit A, and incorporated
8 herein by reference.

9 ADVISEMENT AND WAIVERS

10 6. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Accusation Nos. 5358 and 5373. Respondent has also carefully read,
12 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
13 Disciplinary Order.

14 7. Respondent is fully aware of her legal rights in this matter, including the right to a
15 hearing on the charges and allegations in Accusation Nos. 5358 and 5373; the right to confront
16 and cross-examine the witnesses against her; the right to present evidence and to testify on her
17 own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
18 production of documents; the right to reconsideration and court review of an adverse Decision;
19 and all other rights accorded by the California Administrative Procedure Act and other applicable
20 laws.

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

23 CULPABILITY

24 9. Respondent understands and agrees that the charges and allegations in Accusation
25 Nos. 5358 and 5373, if proven at a hearing, constitute cause for imposing discipline upon her
26 Pharmacist License.

27 10. For the purpose of resolving Accusation Nos. 5358 and 5373 without the expense and
28 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could

1 establish a factual basis for the charges in the Accusation Nos. 5358 and 5373, and that
2 Respondent hereby gives up her right to contest those charges.

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

5 CONTINGENCY

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

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

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

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

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 55935 issued to Respondent
3 Nina Thien-Nga Tran is revoked. However, the revocation is stayed and Respondent is placed on
4 probation for five (5) years on the following terms and conditions.

5 1. **Suspension**

6 As part of probation, Respondent is suspended from the practice of pharmacy for thirty (30)
7 days beginning the effective date of this Decision.

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

16 Respondent shall not engage in any activity that requires the professional judgment of a
17 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
18 Respondent shall not perform the duties of a pharmacy technician or a designated representative
19 for any entity licensed by the Board.

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

21 2. **Obey All Laws**

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

23 Respondent shall report any of the following occurrences to the Board, in writing, within
24 seventy-two (72) hours of such occurrence:

- 25 • an arrest or issuance of a criminal complaint for violation of any provision of the
26 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
27 substances laws

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- 1 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
- 2 criminal complaint, information or indictment
- 3 • a conviction of any crime
- 4 • discipline, citation, or other administrative action filed by any state or federal agency
- 5 which involves Respondent's pharmacist license or which is related to the practice of
- 6 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
- 7 for any drug, device or controlled substance.

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

9 **3. Report to the Board**

10 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its
11 designee. The report shall be made either in person or in writing, as directed. Among other
12 requirements, Respondent shall state in each report under penalty of perjury whether there has
13 been compliance with all the terms and conditions of probation. Failure to submit timely reports
14 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
15 in submission of reports as directed may be added to the total period of probation. Moreover, if
16 the final probation report is not made as directed, probation shall be automatically extended until
17 such time as the final report is made and accepted by the Board.

18 **4. Interview with the Board**

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

24 **5. Cooperate with Board Staff**

25 Respondent shall cooperate with the Board's inspection program and with the Board's
26 monitoring and investigation of Respondent's compliance with the terms and conditions of her
27 probation. Failure to cooperate shall be considered a violation of probation.

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1 **6. Continuing Education**

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

4 **7. Notice to Employers**

5 During the period of probation, Respondent shall notify all present and prospective
6 employers of the Decision in case numbers 5358 and 5373 and the terms, conditions and
7 restrictions imposed on Respondent by the Decision, as follows:

8 Within thirty (30) days of the effective date of this Decision, and within fifteen (15) days of
9 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,
10 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
11 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
12 individual(s) has/have read the Decision in case numbers 5358 and 5373, and terms and
13 conditions imposed thereby. It shall be Respondent's responsibility to ensure that her
14 employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

15 If Respondent works for or is employed by or through a pharmacy employment service,
16 Respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
17 licensed by the Board of the terms and conditions of the Decision in case numbers 5358 and 5373
18 in advance of the Respondent commencing work at each licensed entity. A record of this
19 notification must be provided to the Board upon request.

20 Furthermore, within thirty (30) days of the effective date of this Decision, and within fifteen
21 (15) days of Respondent undertaking any new employment by or through a pharmacy
22 employment service, Respondent shall cause her direct supervisor with the pharmacy
23 employment service to report to the Board in writing acknowledging that she has read the
24 Decision in case numbers 5358 and 5373 and the terms and conditions imposed thereby. It shall
25 be Respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely
26 acknowledgment(s) to the Board.

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1 Failure to timely notify present or prospective employer(s) or to cause that/those
2 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
3 probation.

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

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

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

14 **9. Reimbursement of Board Costs**

15 Respondent agrees to be jointly and severally liable with Spectrum Pharmacy – Anaheim
16 for payment of the Board's costs of investigation and prosecution for Accusation No. 5373, in the
17 amount of \$11,539.87. In addition, Respondent agrees to pay the Board its costs of investigation
18 and prosecution for Accusation No. 5358 in the amount of \$6,582.68.

19 Respondent shall be permitted to pay costs in a payment plan approved by the Board, with
20 payments to be completed no later than three months prior to the end of the probation term.

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

24 The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility
25 to reimburse the Board its costs of investigation and prosecution.

26 **10. Probation Monitoring Costs**

27 Respondent shall pay any costs associated with probation monitoring as determined by the
28 Board each and every year of probation. Such costs shall be payable to the Board on a schedule

1 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
2 shall be considered a violation of probation.

3 **11. Status of License**

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

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

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

12 Following the effective date of this Decision, should Respondent cease practice due to
13 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
14 Respondent may tender her license to the Board for surrender. The Board or its designee shall
15 have the discretion whether to grant the request for surrender or take any other action it deems
16 appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent
17 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
18 record of discipline and shall become a part of the Respondent's license history with the Board.

19 Upon acceptance of the surrender, Respondent shall relinquish her pocket and wall license
20 to the Board within ten (10) days of notification by the Board that the surrender is accepted.
21 Respondent may not reapply for any license from the Board for three (3) years from the effective
22 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
23 of the date the application for that license is submitted to the Board, including any outstanding
24 costs.

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

27 Respondent shall notify the Board in writing within ten (10) days of any change of
28 employment. Said notification shall include the reasons for leaving, the address of the new

1 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
2 shall further notify the Board in writing within ten (10) days of a change in name, residence
3 address, mailing address, or phone number.

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

6 **14. Tolling of Probation**

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

13 Should Respondent, regardless of residency, for any reason (including vacation) cease
14 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,
15 Respondent must notify the Board in writing within ten (10) days of the cessation of practice, and
16 must further notify the Board in writing within ten (10) days of the resumption of practice. Any
17 failure to provide such notification(s) shall be considered a violation of probation.

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

21 "Cessation of practice" means any calendar month during which Respondent is
22 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and
23 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
24 month during which Respondent is practicing as a pharmacist for at least forty (40)
25 hours as a pharmacist as defined by Business and Professions Code section 4000 et
26 seq.

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1 **15. Violation of Probation**

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

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

14 **16. Completion of Probation**

15 Upon written notice by the Board or its designee indicating successful completion of
16 probation, Respondent's license will be fully restored.

17 **17. Remedial Education**

18 Within sixty (60) days of the effective date of this Decision, Respondent shall submit to the
19 Board or its designee, for prior approval, an appropriate program of remedial education related to
20 corresponding responsibility, prescription drug abuse prevention, and Pharmacy Law. The
21 program of remedial education shall consist of at least six (6) hours for each year of probation,
22 and shall be completed at Respondent's own expense. All remedial education shall be in addition
23 to, and shall not be credited toward, continuing education (CE) courses used for license renewal
24 purposes.

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

1 Following the completion of each course, the Board or its designee may require the
2 Respondent, at her own expense, to take an approved examination to test the Respondent's
3 knowledge of the course. If the Respondent does not achieve a passing score on the examination,
4 this failure shall be considered a violation of probation. Any such examination failure shall
5 require Respondent to take another course approved by the Board in the same subject area.

6 **18. Supervised Practice**

7 During the period of probation, Respondent shall practice only under the supervision of a
8 licensed pharmacist not on probation with the Board. Upon and after the effective date of this
9 Decision, Respondent shall not practice pharmacy and her license shall be automatically
10 suspended until a supervisor is approved by the Board or its designee. The supervision shall be,
11 as required by the Board or its designee, either:

12 Continuous - At least 75% of a work week

13 Substantial - At least 50% of a work week

14 Partial - At least 25% of a work week

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

16 Within thirty (30) days of the effective date of this Decision, Respondent shall have her
17 supervisor submit notification to the Board in writing stating that the supervisor has read the
18 Decision in case numbers 5358 and 5373 and is familiar with the required level of supervision as
19 determined by the Board or its designee. It shall be the Respondent's responsibility to ensure that
20 her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
21 the Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
22 acknowledgements to the Board shall be considered a violation of probation.

23 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
24 that her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
25 acknowledgement(s) to the Board. Respondent shall have her new supervisor, within fifteen (15)
26 days after employment commences, submit notification to the Board in writing stating the direct
27 supervisor and pharmacist-in-charge have read the Decision in case numbers 5358 and 5373 and
28 is familiar with the level of supervision as determined by the Board. Respondent shall not

1 practice pharmacy and her license shall be automatically suspended until the Board or its
2 designee approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-
3 charge to submit timely acknowledgements to the Board shall be considered a violation of
4 probation.

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

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

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

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

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

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

23 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
24 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
25 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell
26 or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90)
27 days following the effective date of this Decision and shall immediately thereafter provide written
28 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide

1 documentation thereof shall be considered a violation of probation.

2 **20. Tolling of Suspension**

3 During the period of suspension, Respondent shall not leave California for any period
4 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
5 of the (10) days during suspension shall be considered a violation of probation. Moreover, any
6 absence from California during the period of suspension exceeding ten (10) days shall toll the
7 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
8 Respondent is absent from California. During any such period of tolling of suspension,
9 Respondent must nonetheless comply with all terms and conditions of probation.

10 Respondent must notify the Board in writing within ten (10) days of departure, and must
11 further notify the Board in writing within ten (10) days of return. The failure to provide such
12 notification(s) shall constitute a violation of probation. Upon such departure and return,
13 Respondent shall not resume the practice of pharmacy until notified by the Board that the period
14 of suspension has been satisfactorily completed.

15 **21. Ethics Course**

16 Within sixty (60) calendar days of the effective date of this Decision, Respondent shall
17 enroll in a course in ethics, at Respondent's expense, approved in advance by the Board or its
18 designee. Failure to initiate the course during the first year of probation, and complete it within
19 the second year of probation, is a violation of probation.

20 Respondent shall submit a certificate of completion to the Board or its designee within five
21 days after completing the course. The ethics course shall be in addition to, and shall not be
22 credited toward, continuing education (CE) courses used for license renewal purposes.

23 ACCEPTANCE

24 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
25 discussed it with my attorney, Ivan Petrzolka, Pharm.D., J.D. I understand the stipulation and the
26 effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and

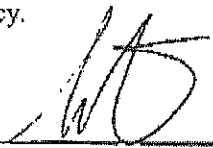
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Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 11-4-16


NINA THIEN-NGA TRAN
Respondent

I have read and fully discussed with Respondent Nina Thien-Nga Tran the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: November 7, 2016


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

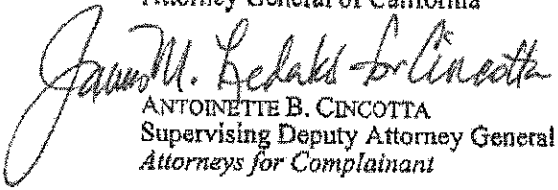
ENDORSEMENT

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

Dated: November 8, 2016

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California


ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5358

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

Case No. 5358 and 5373

In the Matter of the Accusation Against:

**SPECTRUM PHARMACY;
TING LI, TREASURER/CHIEF
FINANCIAL OFFICER;
NINA THIEN-NG PHAM, CHIEF
EXECUTIVE OFFICER;
STEVEN DUNG TRUONG,
PHARMACIST-IN-CHARGE**

Pharmacy Permit No. PHY 48836

and

TING LI

Pharmacist License No. RPH 57363

and

STEVEN DUNG TRUONG

Pharmacist License No. RPH 52822

and

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

Pharmacist License No. RPH 55935

Respondents.

In the Matter of the Accusation Against:

**SPECTRUM PHARMACY INC., DBA
SPECTRUM PHARMACY - ANAHEIM;
NINA THIEN-NG PHAM, CHIEF
EXECUTIVE OFFICER/PHARMACIST-
IN-CHARGE;
STEVEN DUNG TRUONG,
PHARMACIST-IN-CHARGE**

Pharmacy Permit No. PHY 50751

STEVEN DUNG TRUONG

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

11
12 In the Matter of the Accusation Against:
13 **SPECTRUM PHARMACY;**
14 **TING LI, TREASURER/CHIEF**
15 **FINANCIAL OFFICER;**
16 **NINA THIEN-NG PHAM, CHIEF**
17 **EXECUTIVE OFFICER;**
18 **STEVEN DUNG TRUONG, PHARMACIST-**
19 **IN-CHARGE**
18 Endeavor #100
Irvine, CA 92618
20 Pharmacy Permit No. PHY 48836
21 and
22 **TING LI**
505 City Parkway
Orange, CA 92868
23 Pharmacist License No. RPH 57363
24 and
25 **STEVEN DUNG TRUONG**
18 Endeavor #100
Irvine, CA 92618
26 Pharmacist License No. RPH 52822
27 and
28

Case No. 5358

ACCUSATION

1 NINA THIEN-NGA TRAN
1236 N. Magnolia Avenue
2 Anaheim, CA 92801

3 Pharmacist License No. RPH 55935

4 Respondents.

5 Complainant alleges:

6 **PARTIES**

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

9 2. On or about October 10, 2008, the Board issued Pharmacy Permit Number PHY
10 48836 to Spectrum Pharmacy (Respondent Spectrum Pharmacy - Irvine). The Pharmacy Permit
11 was in full force and effect at all times relevant to the charges brought herein and will expire on
12 October 1, 2016, unless renewed.

13 3. On or about August 16, 2005, the Board issued Pharmacist License No. RPH 57363
14 to Ting Li (Respondent Li). The Pharmacist License was in full force and effect at all times
15 relevant to the charges brought herein and will expire on May 31, 2017, unless renewed.

16 4. On or about September 5, 2011, the Board issued Pharmacist License No. RPH 52822
17 to Steven Dung Truong (Respondent Truong). The Pharmacist License was in full force and
18 effect at all times relevant to the charges brought herein and will expire on January 31, 2017,
19 unless renewed.

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

24 **JURISDICTION**

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

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28 ///

1 7. 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 8. Section 4300(a) of the Code provides that every license issued by the Board may be
5 suspended or revoked.

6 9. 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.

13 10. Section 4307(a) of the Code states:

14 (a) Any person who has been denied a license or whose license has been
15 revoked or is under suspension, or who has failed to renew his or her license while
16 it was under suspension, or who has been a manager, administrator, owner,
17 member, officer, director, associate, or partner of any partnership, corporation,
18 firm, or association whose application for a license has been denied or revoked, is
19 under suspension or has been placed on probation, and while acting as the
20 manager, administrator, owner, member, officer, director, associate, or partner had
21 knowledge of or knowingly participated in any conduct for which the license was
22 denied, revoked, suspended, or placed on probation, shall be prohibited from
23 serving as a manager, administrator, owner, member, officer, director, associate, or
24 partner of a licensee as follows:

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

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

STATUTORY PROVISIONS

1 11. Section 4022 of the Code states:

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

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

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

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

7 12. Section 4059, subdivision (a) of the Code states:

8 A person may not furnish any dangerous drug, except upon the prescription
9 of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
10 pursuant to Section 3640.7. A person may not furnish any dangerous device,
11 except upon the prescription of a physician, dentist, podiatrist, optometrist,
12 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

13 13. Section 4081 of the Code states:

14 (a) All records of manufacture and of sale, acquisition, or disposition of
15 dangerous drugs or dangerous devices shall be at all times during business hours
16 open to inspection by authorized officers of the law, and shall be preserved for at
17 least three years from the date of making. A current inventory shall be kept by
18 every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer,
19 physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution,
20 or establishment holding a currently valid and unrevoked certificate, license,
21 permit, registration, or exemption under Division 2 (commencing with Section
22 1200) of the Health and Safety Code or under Part 4 (commencing with Section
23 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock
24 of dangerous drugs or dangerous devices.

25 (b) The owner, officer, and partner of any pharmacy, wholesaler, or
26 veterinary food-animal drug retailer shall be jointly responsible, with the
27 pharmacist-in-charge or representative-in-charge, for maintaining the records and
28 inventory described in this section.

14. Section 4113, subdivision (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."

15. Section 4169, subdivision (a)(5) of the Code provides that a person or entity shall not
fail to maintain records of the acquisition and disposition of dangerous drugs for at least three
years.

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16. 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.

....

17. 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.

18. Health and Safety Code section 11164 states in pertinent part:

Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance, unless it complies with the requirements of this section.

1 (a) Each prescription for a controlled substance classified in Schedule II, III,
2 IV, or V, except as authorized by subdivision (b), shall be made on a controlled
3 substance prescription form as specified in Section 11162.1 and shall meet the
4 following requirements:

5 (1) The prescription shall be signed and dated by the prescriber in ink and
6 shall contain the prescriber's address and telephone number; the name of the
7 ultimate user or research subject, or contact information as determined by the
8 Secretary of the United States Department of Health and Human Services; refill
9 information, such as the number of refills ordered and whether the prescription is a
10 first-time request or a refill; and the name, quantity, strength, and directions for
11 use of the controlled substance prescribed.

12 (2) The prescription shall also contain the address of the person for whom
13 the controlled substance is prescribed. If the prescriber does not specify this
14 address on the prescription, the pharmacist filling the prescription or an employee
15 acting under the direction of the pharmacist shall write or type the address on the
16 prescription or maintain this information in a readily retrievable form in the
17 pharmacy.

18

19 REGULATORY PROVISIONS

20 19. Code of Federal Regulations, title 21, section 1301.11 provides that a person who
21 manufacturers, distributes, dispenses, imports or exports any controlled substances be registered
22 with the Drug Enforcement Administration.

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

24 (a) A prescription for a controlled substance to be effective must be issued for
25 a legitimate medical purpose by an individual practitioner acting in the usual
26 course of his professional practice. The responsibility for the proper prescribing
27 and dispensing of controlled substances is upon the prescribing practitioner, but a
28 corresponding responsibility rests with the pharmacist who fills the prescription.
An order purporting to be a prescription issued not in the usual course of
professional treatment or in legitimate and authorized research is not a prescription
within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the
person knowingly filling such a purported prescription, as well as the person
issuing it, shall be subject to the penalties provided for violations of the provisions
of law relating to controlled substances.

.....

21. Code of Federal Regulations, title 21, section 1306.11 states in pertinent part:

(a) A pharmacist may dispense directly a controlled substance listed in
Schedule II that is a prescription drug as determined under section 503 of the

1 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)) only pursuant to a
2 written prescription signed by the practitioner, except as provided in paragraph (d)
3 of this section. A paper prescription for a Schedule II controlled substance may be
4 transmitted by the practitioner or the practitioner's agent to a pharmacy via
5 facsimile equipment, provided that the original manually signed prescription is
6 presented to the pharmacist for review prior to the actual dispensing of the
7 controlled substance, except as noted in paragraph (e), (f), or (g) of this section.
8 The original prescription shall be maintained in accordance with §1304.04(h) of
9 this chapter.

10

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

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

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

20 COST RECOVERY

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

27 DRUGS

28 24. 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 25. Diladid is a brand name for hydromorphone, is a Schedule II controlled substance
2 pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug
3 pursuant to Business and Professions Code section 4022.

4 26. Fentanyl is a Schedule II controlled substance pursuant to Health and Safety Code
5 section 11055, subdivision (c), and a dangerous drug pursuant to Business and Professions Code
6 section 4022.

7 27. Methadone is a Schedule II controlled substance pursuant to Health and Safety Code
8 section 11055, subdivision (c), and a dangerous drug pursuant to Business and Professions Code
9 section 4022.

10 28. MS Contin is a brand name for morphine, a Schedule II controlled substance pursuant
11 to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to
12 Business and Professions Code section 4022.

13 29. Opana is a brand name for oxymorphone hydrochloride, is a Schedule II controlled
14 substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous
15 drug pursuant to Business and Professions Code section 4022.

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

19 31. Oxycontin is a brand name for oxycodone, a Schedule II controlled substance
20 pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug
21 pursuant to Business and Professions Code section 4022.

22 32. Percocet is a brand name for oxycodone and acetaminophen, a Schedule II controlled
23 substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous
24 drug pursuant to Business and Professions Code section 4022.

25 33. Phenergan with codeine, is a brand name for promethazine with codeine syrup, and is
26 a Schedule V controlled substance pursuant to Health and Safety Code section 11058, and a
27 dangerous drug pursuant to Business and Professions Code section 4022.

28 ///

1 34. Roxicodone is a brand name for oxycodone, a Schedule II controlled substance
2 pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug
3 pursuant to Business and Professions Code section 4022.

4 FACTUAL ALLEGATIONS

5 35. From October 10, 2008 to March 13, 2013, Respondent Li was the Pharmacist-in-
6 Charge (PIC) of Respondent Spectrum Pharmacy – Irvine and has also been its Treasurer and
7 Chief Financial Officer since October 2008. Respondent Truong worked as a staff pharmacist at
8 Spectrum Pharmacy –Irvine. and he became the PIC on March 13, 2013. Respondent Tran has
9 been the Chief Executive Officer since October 2008, and has worked as a staff pharmacist at
10 Spectrum Pharmacy- Irvine.

11 36. On or about September 25, 2012, the Drug Enforcement Administration (DEA) with
12 the assistance of the Long Beach Police Department (LBPD) performed an inspection at
13 Respondent Spectrum Pharmacy - Irvine. As a result of the inspection, Respondent Spectrum
14 Pharmacy –Irvine surrendered their DEA registration effective September 25, 2012. During the
15 inspection, a male individual, later identified as “Earl T.,” walked into Respondent Spectrum
16 Pharmacy- Irvine. When he noticed the officer and agents, Earl T. began acting suspiciously.
17 The agents and officer noted that Earl T. briefly spoke to pharmacy staff in a quiet voice, and then
18 left the pharmacy. When the officer and agents followed Earl T., he attempted to flee the scene in
19 a vehicle, but was stopped and searched. Earl T. had \$6,600 in cash in one pocket and \$559 in
20 cash in the other pocket. Earl T. stated that he was from Los Angeles. When asked what he was
21 picking up or dropping off at the pharmacy, Earl T. stated, “nothing.” The officer and agents
22 searched the area where Earl T. had exited the building and located eight prescriptions written in
23 sequence by Dr. C.A.,¹ all dated May 7, 2012, for Oxycodone 30 mg, with a different patient’s

24
25 ¹ On December 15, 2014, the Medical Board of California filed a disciplinary action
26 (Accusation) against Dr. C.A. for prescribing controlled substances to addicts, excessive
27 prescribing, dishonest or corrupt acts for engaging in a criminal enterprise through which he was
28 paid to write prescriptions to patients who were not suffering from any medical conditions
warranting such prescriptions and for which the patients received remuneration from other
individuals for the prescriptions which were then filled and resold for street use, among several
other allegations.

1 name, telephone number, and date of birth on them. The officer and agents also searched Earl
2 T.'s phone and discovered a call to a telephone number identified as "pharmacy steve" [sic] on
3 September 24, 2012. The "pharmacy steve" phone number belonged to Respondent Truong.

4 37. On October 3, 2012, Respondent Truong was interviewed by LBPB and DEA.
5 Respondent Truong stated that he did not know Earl T.'s last name or occupation, that Earl T.
6 was referred to him by another pharmacist who worked at W&P Pharmacy, that Earl T. would
7 contact Respondent Truong on his cell phone to ask him if he had Oxycodone 30 mg or
8 Phenergan with Codeine in stock, that Earl T. had come into Respondent Spectrum Pharmacy -
9 Irvine several times to fill multiple prescriptions written by the same doctor (Dr. C.A.) for
10 different patients, that Earl T. always paid cash for the prescriptions, and that he never filled a
11 prescription written for Earl T. On Respondent Truong's phone, there was a text message from
12 Earl T. on August 17, 2012 that read, "Dis is earl u have enough for six more cause I want me
13 back until thrusdae r fridae im tryina not to get too backed up." [sic] Respondent Truong
14 admitted during the interview that Earl T. told him that he would pay him an extra \$50 if he
15 ordered Oxycodone manufactured by Mallinckrodt.² Respondent Truong admitted that he
16 ordered the Oxycodone by Mallinckrodt, but was never paid extra money. Respondent Truong
17 stated that he verified some, but not all, of the prescriptions that Earl T. brought to him, that he
18 never asked Earl T. why he was obtaining these prescriptions, and that he never asks patients why
19 they are getting prescriptions.

20 38. In October, 2012, in response to a complaint filed with the Board by the LBPB, the
21 Board conducted an inspection of Respondent Spectrum Pharmacy - Irvine. The inspector
22 discovered a prescription, RX 523506, for a controlled substance that had been filled and
23 dispensed by Respondent Spectrum Pharmacy - Irvine on September 27, 2012, two days after its
24 DEA registration was surrendered. When asked, Respondent Truong admitted that he transferred
25 the drug from another pharmacy (Spectrum Pharmacy - Anaheim) to dispense it from Respondent
26 Spectrum Pharmacy - Irvine. Respondent Truong stated that they were no longer transferring

27 ² There is a higher street demand for Oxycodone manufactured by Mallinckrodt, as
28 opposed to other manufacturers.

1 controlled substances, and were instead faxing prescriptions to Spectrum Pharmacy -Anaheim to
2 be filled and dispensed there.

3 39. During the October 2012 inspection, the inspector also noticed a large number of
4 prescriptions being filled from pain clinics all over Orange County. The inspector noted several
5 prescriptions dispensed by the pharmacy in sequence written by Dr. C.A., whose office was
6 located in Inglewood, approximately 47 miles from Respondent Spectrum Pharmacy - Irvine, for
7 patients from all over Los Angeles. When questioned, Respondent Truong stated that patients
8 sometimes picked up their own medications, but that there was also a driver by the name, "Earle,"
9 who would bring in the prescriptions and pick up the medications for patients. Respondent
10 Spectrum Pharmacy- Irvine had no documentation on the identity of Earle. When the inspector
11 attempted to contact Dr. C.A. to confirm that he wrote the prescriptions dispensed by Respondent
12 Spectrum Pharmacy - Irvine, the letter sent to Dr. C.A. by the Board inspector was returned as
13 undeliverable. The inspector also attempted to contact several patients who had been dispensed
14 medications by Respondents, and all of those letters were returned by the United States Postal
15 Service marked not deliverable.

16 40. As a follow up to the investigation, Respondent Li was asked to answer questions
17 about the patients to whom Respondents had dispensed prescriptions. Respondent Li responded
18 to the inspector's request, and reported that Respondents contact the prescribers to verify new
19 prescriptions, but "do not obtain diagnosis or alternatives 'tried and failed' as that information is
20 not required by California Law." Respondent Li stated that, "It is not the pharmacist's role to
21 discuss other potential medications -- that is the role for the physician." Respondent Li provided
22 only limited information about the patients.

23 41. Upon review of the prescriptions, the Board inspector discovered that Respondents
24 frequently dispensed prescriptions issued in sequence and written several months prior by Dr.
25 C.A., for the same drug and in the same dose (oxycodone 30 mg), with the same directions for
26 use (take 2 tablets three times per day), for different patients located out-of-the-area. For
27 example, on April 25, 2012, four prescription blanks # 4266-4269 were written by Dr. C.A. for
28 oxycodone 30 mg to four different patients, with directions to take 2 tablets three times per day,

1 and all four of these prescriptions were filled in sequence at Respondent Spectrum- Irvine on July
 2 11, 2012. The following is a summary of those prescriptions:

| Date on RX | No. on Prescription Blank | Date Filled | RX No. Assigned by Spectrum | Patient Birth Year | Patient City | Dispensing Pharmacist |
|------------|---------------------------|-------------|-----------------------------|--------------------|--------------|-----------------------|
| 4/25/12 | 4268 | 7/11/12 | 521054 | 1975 | Lawndale | Unknown |
| 4/25/12 | 4267 | 7/11/12 | 521056 | 1966 | Los Angeles | Unknown |
| 4/25/12 | 4269 | 7/11/12 | 521055 | 1970 | Gardena | Unknown |
| 4/25/12 | 4266 | 7/11/12 | 521057 | 1973 | Lawndale | Unknown |
| 4/25/12 | 4271 | 7/24/12 | 521452 | 1981 | Los Angeles | ST ³ |
| 4/25/12 | 4275 | 7/24/12 | 521453 | 1970 | Los Angeles | ST |
| 4/25/12 | 4276 | 7/24/12 | 521454 | 1957 | Los Angeles | ST |
| 4/25/12 | 4272 | 7/24/12 | 541455 | 1975 | Los Angeles | ST |
| 4/25/12 | 4277 | 7/25/12 | 521490 | 1955 | Compton | ST |
| 4/25/12 | 4278 | 7/25/12 | 521491 | 1975 | Los Angeles | ST |
| 4/25/12 | 4279 | 7/25/12 | 521492 | 1959 | Compton | ST |
| 4/26/12 | 4283 | 7/28/12 | 521585 | 1977 | Los Angeles | ST |
| 4/26/12 | 4284 | 7/28/12 | 521584 | 1970 | Los Angeles | ST |
| 4/26/12 | 4282 | 7/28/12 | 521586 | 1969 | Los Angeles | ST |
| 4/26/12 | 4281 | 7/28/12 | 521587 | 1961 | Inglewood | ST |
| 4/26/12 | 4280 | 7/28/12 | 521588 | 1974 | Los Angeles | ST |
| 4/27/12 | 4286 | 7/30/12 | 521596 | 1966 | Compton | ST |
| 4/27/12 | 4287 | 7/30/12 | 521597 | 1951 | Los Angeles | ST |
| 4/26/12 | 4285 | 7/30/12 | 521598 | 1953 | Los Angeles | ST |
| 4/27/12 | 4293 | 8/1/12 | 521676 | 1971 | Los Angeles | ST |
| 4/27/12 | 4296 | 8/1/12 | 521677 | 1966 | Compton | ST |

³ The initials ST are Respondent Truong's initials.

| | | | | | | | |
|----|---------|------|---------|--------|------|-------------|----|
| 1 | 4/27/12 | 4295 | 8/1/12 | 521678 | 1954 | Los Angeles | ST |
| 2 | 4/29/12 | 4294 | 8/9/12 | 521910 | 1979 | Los Angeles | ST |
| 3 | 4/29/12 | 4292 | 8/9/12 | 521911 | 1974 | Los Angeles | ST |
| 4 | 4/29/12 | 4291 | 8/9/12 | 521912 | 1956 | Inglewood | ST |
| 5 | 4/29/12 | 4290 | 8/9/12 | 521913 | None | Compton | ST |
| 6 | 4/29/12 | 4300 | 8/10/12 | 521961 | 1965 | Compton | ST |
| 7 | 4/29/12 | 4297 | 8/10/12 | 521962 | 1955 | Los Angeles | ST |
| 8 | 4/29/12 | 4298 | 8/10/12 | 521963 | 1970 | Los Angeles | ST |
| 9 | 4/29/12 | 4299 | 8/11/12 | 521989 | 1952 | Los Angeles | ST |
| 10 | 4/30/12 | 4527 | 8/11/12 | 521990 | 1971 | Inglewood | ST |
| 11 | 5/3/12 | 4538 | 8/14/12 | 522046 | 1966 | Inglewood | ST |
| 12 | 5/3/12 | 4546 | 8/14/12 | 522047 | 1961 | Compton | ST |
| 13 | 5/3/12 | 4549 | 8/14/12 | 522048 | 1977 | Los Angeles | ST |
| 14 | 5/3/12 | 4548 | 8/14/12 | 522049 | 1968 | Los Angeles | ST |
| 15 | 5/3/12 | 4547 | 8/14/12 | 522050 | 1970 | Compton | ST |
| 16 | 5/2/12 | 4637 | 8/16/12 | 522137 | 1967 | Los Angeles | ST |
| 17 | 5/2/12 | 4536 | 8/16/12 | 522138 | 1970 | Inglewood | ST |
| 18 | 5/2/12 | 4539 | 8/16/12 | 522143 | 1974 | Los Angeles | ST |
| 19 | 5/2/12 | 4534 | 8/16/12 | 522141 | 1966 | Los Angeles | ST |
| 20 | 5/2/12 | 4535 | 8/16/12 | 522140 | 1972 | Los Angeles | ST |
| 21 | 5/4/12 | 4309 | 8/29/12 | 522526 | 1959 | Los Angeles | ST |
| 22 | 5/4/12 | 4305 | 8/29/12 | 522527 | None | None | ST |
| 23 | 5/4/12 | 4304 | 8/29/12 | 522528 | None | None | ST |
| 24 | 5/4/12 | 4303 | 8/29/12 | 522529 | None | None | ST |
| 25 | 5/4/12 | 4306 | 8/29/12 | 522530 | 1974 | Los Angeles | ST |
| 26 | 5/4/12 | 4313 | 8/31/12 | 522633 | None | None | ST |
| 27 | 5/4/12 | 4311 | 8/31/12 | 522634 | 1956 | Los Angeles | ST |
| 28 | | | | | | | |

| | | | | | | | |
|----|--------|------|---------|--------|------|-------------|----|
| 1 | 5/4/12 | 4310 | 8/31/12 | 522635 | 1977 | Los Angeles | ST |
| 2 | 5/4/12 | 4312 | 8/31/12 | 522636 | 1972 | Los Angeles | ST |
| 3 | 5/4/12 | 4327 | 9/1/12 | 522690 | None | None | ST |
| 4 | 5/4/12 | 4326 | 9/1/12 | 522691 | None | None | ST |
| 5 | 5/4/12 | 4318 | 9/1/12 | 522692 | None | None | ST |
| 6 | 5/4/12 | 4317 | 9/1/12 | 522693 | None | None | ST |
| 7 | 5/4/12 | 4325 | 9/1/12 | 522694 | None | None | ST |
| 8 | 5/5/12 | 4314 | 9/6/12 | 522774 | None | None | ST |
| 9 | 5/4/12 | 4315 | 9/6/12 | 522775 | None | None | ST |
| 10 | 5/4/12 | 4316 | 9/6/12 | 522776 | None | None | ST |
| 11 | 5/4/12 | 4321 | 9/6/12 | 522777 | None | None | ST |

12
13 42. In addition, Respondents dispensed drugs to multiple patients with fake or non-
14 existent addresses. Respondent Spectrum – Irvine also dispensed 180 tablets of oxycodone 30 mg
15 without a valid prescription. In fact, RX 521585 had no quantity written on the prescription and
16 no checkbox was checked; yet, Respondent Truong dispensed 180 tablets of oxycodone to the
17 patient.

18 43. Respondents also filled prescriptions for patients who were habitual doctor and
19 pharmacy shoppers, as follows:

20 Patient R.M.

21 44. R.M. (DOB 1983) had an address in Inglewood, approximately 45 miles from
22 Respondent Spectrum Pharmacy. From May, 2010 to September, 2012, Respondents dispensed
23 multiple prescriptions to R.M. for oxycodone 30 mg written by five different prescribers, located
24 in Rancho Cucamonga, Panorama City, Los Angeles, and Garden Grove. The use of five
25 different prescribers of the same drug should have been a red flag to Respondents. Some of the
26 prescriptions did not relate to the prescriber’s practice. For example, R.M. received a strong pain
27 medication (oxycodone) from Dr. MS, who is a board certified eye specialist. In addition to
28 oxycodone, R.M. was also prescribed other pain medications. R.M. paid cash for all of the

1 oxycodone prescriptions dispensed by Respondents. Moreover, the prescriptions dispensed by
2 Respondents were not consistent. For example, on July 29, 2010, R.M. received 60 tablets of 60
3 mg of oxycodone with directions to take the drug twice per day. Therefore, R.M. was taking 120
4 mg of oxycodone per day. The next month, a different prescriber wrote a prescription for 90
5 tablets of oxycodone 80 mg. with directions for R.M. to take the drug three times per day.
6 Therefore R.M. received double the dose prescribed the month prior. Respondents should have
7 questioned R.M. and the prescriber about how R.M. was taking their medications, and verify that
8 the prescriber knew about the previous therapies and multiple prescribers to ensure patient safety,
9 and the legitimacy of the prescription.

10 Patient T.C.H.

11 45. T.C.H. (DOB 1936) had an address in Riverside, approximately 44 miles from
12 Respondent Spectrum Pharmacy - Irvine. From June 2009 to March 2012, T.C.H. saw seven
13 prescribers from Northridge, Rancho Cucamonga, Culver City, Panorama City, Inglewood, Los
14 Angeles, and Garden Grove, who prescribed her controlled substances, and obtained controlled
15 substances from seven pharmacies in Los Angeles, El Segundo, Torrance, Huntington Beach,
16 Lennox, Irvine, and Alhambra. Respondents dispensed multiple controlled substance
17 prescriptions to T.C.H. from March 2010 to March 2012, and told the inspector that this patient
18 was tested for drugs. The prescriptions were inconsistent. For example, Respondents dispensed
19 to T.C.H. Oxycontin 80 mg, with directions to take it three times per day (240 mg/day) from
20 March to July 2010. In August 2010, Respondents filled a prescription written by a different
21 prescriber for Oxycontin 30 mg, with directions to take it every 4-6 hours (120-180 mg/day).
22 There were no notes or documentation indicating that Respondents spoke with the prescriber or
23 patient about the sudden decrease in dosage. In January 2011, T.C.H. was prescribed Opana
24 (oxymorphone). A few months later, a different prescriber wrote T.C.H. a prescription for
25 oxycodone. Respondent Li stated that T.C.H. tried Motrin for pain, but the pain was significant,
26 and that T.C.H. would pick up her prescriptions after her doctor's appointment in Garden Grove.
27 However, Garden Grove is 15 miles away from Respondent Spectrum - Irvine and, in the

28 ///

1 opposite direction of T.C.H.'s home in Riverside. In addition, T.C.H. also received other pain
2 medications.

3 Patient F.I.L.

4 46. F.I.L. (DOB 1956) had an address in Inglewood, approximately 46 miles from
5 Respondent Spectrum Pharmacy - Irvine. From March 2010 to September 2012, F.I.L. saw six
6 different prescribers from Rancho Cucamonga, Hawthorne, Panorama City, Los Angeles, and
7 Garden Grove, that prescribed her controlled substance prescriptions, and obtained controlled
8 substances from eight pharmacies in Alhambra, Hawthorne, Irvine, and Santa Ana. The
9 prescriptions were inconsistent. For example, one month F.I.L. was dispensed oxycodone 80 mg
10 with directions to take it three times per day (240 mg/day). The following month, F.I.L. was
11 prescribed oxymorphone. Then the next month, F.I.L. was taking oxycodone again, at a different
12 dosage (120-180 mg). There was no documentation indicating that Respondents clarified the
13 prescriptions, asked about the change in regimen, or spoke to F.I.L. or the prescriber about the
14 medication, the dose, or the other multiple prescribers. Respondents did not answer the inspector
15 when asked whether F.I.L. picked up his own prescriptions from Respondent Spectrum
16 Pharmacy. Respondent Li acknowledged that F.I.L. used multiple doctors.

17 47. All three of the above patients regularly obtained controlled substances from the same
18 prescribers, including Drs. MA, MS, EC,⁴ and Physician Assistant (PA) DN.⁵ Had Respondent
19 Spectrum - Irvine utilized CURES reports, they would have been able to determine that the
20 patients were doctor and/or pharmacy shopping or that the patients were receiving narcotic
21 prescriptions from other pharmacies at the same time they were obtaining narcotics from
22 Respondent Spectrum - Irvine.

23 48. In addition, Respondent Li failed to provide complete records of disposition of
24 controlled substances to the Board inspector. Despite requests by inspectors, Respondent Li
25

26 ⁴ Dr. E.C.'s medical license was surrendered effective November 6, 2015, following the
Medical board's filing of an Accusation against him.

27 ⁵ PA DN's physician assistant license was disciplined by the Physician's Assistant
28 Committee, effective April 11, 2005, after PA DN committed repeated negligent acts.

1 never provided complete controlled substance logs showing dispositions of approximately fifty-
2 eight prescriptions from January 1, 2011 to October 5, 2012.

3 49. Additionally, the Board inspector discovered that Respondent Tran, while working as
4 a staff pharmacist, dispensed Schedule II controlled substance prescriptions from faxed copies
5 and telephonic prescriptions before receiving the original prescriptions as follows:

6

| Patient | Drug | RX No. | Date |
|---------|------------------|--------|------------|
| 7 RB | Dilaudid Liquid | 505877 | 10/28/2010 |
| 8 IP | Methadone 10mg | 517306 | 3/9/2012 |
| 9 IP | Oxycodone 30mg | 517307 | 3/9/2012 |
| 10 LG | Dilaudid 4 mg | 510002 | 5/23/2011 |
| 11 JH | MS Contin 60 mg | 511746 | 8/10/2011 |
| 12 JH | MS Contin 15 mg | 511747 | 8/10/2011 |
| 13 PW | Fentanyl Patches | 511745 | 8/10/11 |
| 14 DB | Nucynta 75 mg | 512400 | 9/8/2011 |
| 15 DB | Fentanyl Patches | 512401 | 9/8/2011 |
| 16 BC | Percocet 10/325 | 513103 | 10/6/2011 |
| 17 TD | Dilaudid 4mg | 516887 | 2/27/2012 |
| 18 OS | Fentanyl patch | 516956 | 2/28/2012 |

19

20 **FIRST CAUSE FOR DISCIPLINE**

21 (As to Respondents Spectrum Pharmacy, Li, and Truong)

22 (Unprofessional Conduct - Failure to Implement Corresponding Responsibility)

23 50. Respondents Spectrum Pharmacy, Li and Truong are subject to disciplinary action for
24 unprofessional conduct under Code section 4301, subdivisions (j), for violation of Health and
25 Safety Code section 11153, subdivision (a), in that they failed to comply with their corresponding
26 responsibility to ensure that controlled substances are dispensed for a legitimate medical purpose.
27 The circumstances are that they failed to evaluate the totality of the circumstances (information
28 from the patient, physician, CURES and other sources) to determine the prescriptions' were

1 issued for a legitimate medical purpose in light of information showing that several patients
2 demonstrated drug seeking behaviors such as doctor and pharmacy shopping, numerous patients
3 had addresses outside Respondents' normal trade area, numerous patients saw prescribers that
4 were great distances from the pharmacy's addresses, prescriptions were written for an unusually
5 large quantity of drugs, there were irregularities in the prescriber's qualifications in relation to the
6 type of medications prescribed, several patients came into Respondent Spectrum Pharmacy-
7 Irvine in sequence from the same doctor with prescriptions for the same drug, in the same dose
8 and strength on the same day, and controlled substance prescriptions were provided to an
9 unidentified driver "Earl" without confirming with the patient, among other things, as set forth in
10 paragraphs 35 through 49, which are incorporated herein by this reference.

11 **SECOND CAUSE FOR DISCIPLINE**

12 (As to Respondents Spectrum Pharmacy, Li, and Truong)

13 (Unprofessional Conduct – Filling Erroneous or Uncertain Prescriptions)

14 51. Respondents Spectrum Pharmacy, Li and Truong are subject to disciplinary action for
15 unprofessional conduct under Code section 4301, subdivision (o), for violating California Code of
16 Regulations, title 16, section 1761 for filling erroneous or uncertain prescriptions in that
17 Respondents dispensed prescriptions containing errors, irregularities, or uncertainties to patients,
18 as set forth in paragraphs 35 through 49, which are incorporated herein by this reference.

19 **THIRD CAUSE FOR DISCIPLINE**

20 (As to Respondents Spectrum Pharmacy, Li, and Truong)

21 (Unprofessional Conduct – Gross Negligence)

22 52. Respondents Spectrum Pharmacy, Li and Truong are subject to disciplinary action for
23 unprofessional conduct under Code section 4301, subdivision (c), in that Respondents were
24 grossly negligent in dispensing controlled substances. The circumstances are that Respondents
25 knew or should have known that the controlled substances dispensed to patients were likely to be
26 used for other than a legitimate medical purpose, and Respondent failed to take appropriate steps
27 when presented with numerous controlled substance prescriptions by patients from the same
28 doctor for the same drug and strength on the same day and who came into Respondent Pharmacy

1 in sequence. Respondent failed to perform additional investigation to determine whether the
2 prescriptions were issued for a legitimate medical purpose, as set forth in paragraphs 35 through
3 49, which are incorporated herein by this reference.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 (As to Respondents Spectrum Pharmacy and Li)

6 (Unprofessional Conduct – Failure to Keep Complete Records)

7 53. Respondents Spectrum Pharmacy and Li are subject to disciplinary action for
8 unprofessional conduct under Code section 4169(a)(5) in that Respondents failed to maintain
9 records of disposition of dangerous drugs for at least three years as set forth in paragraphs 35
10 through 49, which are incorporated herein by this reference.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 (As to Respondents Spectrum Pharmacy, Li, and Truong)

13 (Unprofessional Conduct – Non-Compliant Furnishing a Controlled Substance After
14 Surrender of DEA Registration)

15 54. Respondents Spectrum Pharmacy and Li are subject to disciplinary action for
16 unprofessional conduct under Code section 4301, subdivision (j), for violating Code of Federal
17 Regulations, title 21, section 1301.11, in that after Respondent Spectrum Pharmacy surrendered
18 their DEA registration, they arranged for a controlled substance be transferred from another
19 pharmacy and to be dispensed from Respondent Spectrum Pharmacy, as set forth in paragraphs
20 35 through 49, which are incorporated herein by this reference.

21 **SIXTH CAUSE FOR DISCIPLINE**

22 (As to Respondents Spectrum Pharmacy, Li, and Truong)

23 (Unprofessional Conduct –Furnishing a Controlled Substance
24 Without a Valid Prescription)

25 55. Respondents Spectrum Pharmacy, Li, and Truong are subject to disciplinary action
26 for unprofessional conduct under Code section 4301, subdivision (j), for violating Business and
27 Professions Code section 4059(a) and Health and Safety Code section 11164, for furnishing a
28

1 controlled substance (180 tablets of oxycodone) without a valid prescription, as set forth in
2 paragraph 48, which is incorporated herein by this reference.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 (As to Respondents Spectrum Pharmacy and Tran)

5 (Unprofessional Conduct –Non-compliant Dispensing of Controlled Substance
6 Prescriptions)

7 56. Respondents Spectrum Pharmacy and Tran are subject to disciplinary action for
8 unprofessional conduct under Code section 4301, subdivision (j), for violating Code of Federal
9 Regulations, title 21, section 1306.11, subdivision (a) in that Respondents dispensed Schedule II
10 controlled substance prescriptions from faxed copies and telephonic prescriptions before
11 receiving the original prescription, as set forth in paragraph 49, which is incorporated herein by
12 this reference.

13 **DISCIPLINARY CONSIDERATIONS**

14 57. To determine the degree of discipline, if any, to be imposed on Respondent Truong,
15 Complainant alleges that on or about July 25, 2013, in a prior action, the Board issued Citation
16 Number CI 2011 52553 to Respondent Truong for violation of Business and Professions Code
17 section 4301, subdivisions (f), unprofessional conduct; acts of moral turpitude, dishonesty, fraud
18 deceit or corruption, and subdivision (g), knowingly making or signing any certificate or other
19 document that falsely represents the existence or nonexistence of a fact; and Business and
20 Professions Code section 4342 for drugs lacking quality and strength, and assessed a fine in the
21 amount of \$2,500.00. That Citation is now final, and is incorporated herein by this reference.

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

28 ///

1 OTHER MATTERS

2 59. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
3 PHY 48836 issued to Spectrum Pharmacy, and Ting Li, Steven Dung Truong, and/or Nina Thien-
4 Nga Tran, while acting as the manager, administrator, owner, member, officer, director, associate,
5 or partner of Spectrum Pharmacy, had knowledge of or knowingly participated in any conduct for
6 which Pharmacy Permit Number PHY 48836 issued to Spectrum Pharmacy was revoked,
7 suspended or placed on probation, Ting Li, Steven Dung Truong, and/or Nina Thien-Nga Tran
8 shall be prohibited from serving as a manager, administrator, owner, member, officer, director,
9 associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 48836 issued to
10 Spectrum Pharmacy is placed on probation or until Pharmacy Permit Number PHY 48836 issued
11 to Spectrum Pharmacy is reinstated if it is revoked.

12 PRAYER

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

- 15 1. Revoking or suspending Pharmacy Permit Number PHY 48836 issued to Spectrum
16 Pharmacy;
- 17 2. Revoking or suspending Pharmacist License No. RPH 57363 issued to Ting Li;
- 18 3. Revoking or suspending Pharmacist License No. RPH 52822 issued to Steven Dung
19 Truong;
- 20 4. Revoking or suspending Pharmacist License No. RPH 55935 issued to Nina Thien-
21 Nga Tran;
- 22 5. Ordering Spectrum Pharmacy, Ting Li, Steven Dung Truong, and Nina Thien-Nga
23 Tran to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of
24 this case, pursuant to Business and Professions Code section 125.3;
- 25 6. Prohibiting Respondents Steven Dung Truong, Ting Li and Nina Thien-Nga Tran
26 from serving as a manager, administrator, owner, member, officer, director, associate or partner
27 of a licensee for a period not to exceed five years in the case of probation, or in the case of
28 revocation, until the license is reinstated.

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

DATED: 4/16/16

Virginia Herold

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

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

11.

| | |
|---|---|
| <p>12. In the Matter of the Accusation Against:</p> <p>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</p> <p>18. Pharmacy Permit No. PHY 50751</p> <p>19. STEVEN DUNG TRUONG 18 Endeavor 100 20. Irvine, CA 92618</p> <p>21. Pharmacist License No. RPH 52822</p> <p>22. and</p> <p>23. NINA THIEN-NGA TRAN 1236 N. Magnolia Avenue 24. Anaheim, CA 92801</p> <p>25. Pharmacist License No. RPH 55935</p> <p>26. Respondents.</p> | <p>Case No. 5373</p> <p>ACCUSATION</p> |
|---|---|

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
12 exceed five years.

13 (2) Where the license is denied or revoked, the prohibition shall continue
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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28 ///

1 12. Section 4301 of the Code states:

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

5
6 (c) Gross negligence.
7

8 (j) The violation of any of the statutes of this state, of any other state, or of
9 the United States regulating controlled substances and dangerous drugs.
10

11 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
12 abetting the violation of or conspiring to violate any provision or term of this
13 chapter or of the applicable federal and state laws and regulations governing
14 pharmacy, including regulations established by the board or by any other state or
15 federal regulatory agency.
16

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

18 (a) A prescription for a controlled substance shall only be issued for a
19 legitimate medical purpose by an individual practitioner acting in the usual course
20 of his or her professional practice. The responsibility for the proper prescribing
21 and dispensing of controlled substances is upon the prescribing practitioner, but a
22 corresponding responsibility rests with the pharmacist who fills the prescription.
23 Except as authorized by this division, the following are not legal prescriptions: (1)
24 an order purporting to be a prescription which is issued not in the usual course of
25 professional treatment or in legitimate and authorized research; or (2) an order for
26 an addict or habitual user of controlled substances, which is issued not in the
27 course of professional treatment or as part of an authorized narcotic treatment
28 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.

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 to 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 (o), 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 (o), 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

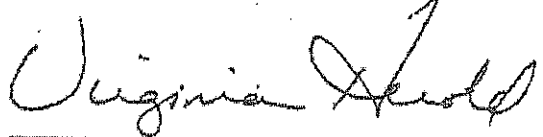
26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board of Pharmacy issue a decision:

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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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