

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

In the Matter of the Statement of Issues
Against:

SONGUL AFACAN YAPRAK

Intern Pharmacist License Registration

Respondent.

Case No. 5279

OAH No. 2015050990

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 October 24, 2016.

It is so ORDERED on September 23, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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7

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

10 In the Matter of the Statement of Issues
11 Against:
12 **SONGUL AFACAN YAPRAK**
18319 Collins Street, #1
13 Tarzana, CA 91356
14 **Intern Pharmacist Registration**
15 Respondent.

Case No. 5279
OAH No. 2015050990
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by Antonio Lopez, Jr., Deputy Attorney
23 General.
24 2. Respondent Songul Afacan Yaprak ("Respondent") is represented in this proceeding
25 by attorney Herbert L. Weinberg, whose address is: 1990 So. Bundy Drive, Suite 777
26 Los Angeles, CA 90025.
27 3. On or about December 20, 2013, Respondent filed an application dated December 18,
28 2013, with the Board of Pharmacy to obtain an Intern Pharmacist Registration.

1 JURISDICTION

2 4. Statement of Issues No. 5279 was filed before the Board of Pharmacy (Board),
3 Department of Consumer Affairs, and is currently pending against Respondent. The Statement of
4 Issues and all other statutorily required documents were properly served on Respondent on
5 February 4, 2015.

6 5. A copy of Statement of Issues No. 5279 is attached as exhibit A and incorporated
7 herein by reference.

8 ADVISEMENT AND WAIVERS

9 6. Respondent has carefully read, fully discussed with counsel, and understands the
10 charges and allegations in Statement of Issues No. 5279. Respondent has also carefully read,
11 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
12 Disciplinary Order.

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

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

21 CULPABILITY

22 9. Respondent Songul Afacan Yaprak understands and agrees that the charges and
23 allegations in Case No. 5279, if proven at a hearing, constitute cause for imposing discipline upon
24 her Pharmacy Technician License.

25 10. For the purpose of resolving the Statement of Issues without the expense and
26 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
27 establish a factual basis for the charges in the Statement of Issues, and that Respondent hereby
28 gives up her right to contest those charges.

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

4 CONTINGENCY

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

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

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

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

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Intern Pharmacist Registration will be issued to
3 Respondent Songul Afacan Yaprak and immediately revoked. The revocation will be stayed and
4 the Respondent placed on two (2) years probation on the following terms and conditions.

5 1. **Obey All Laws**

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

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

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

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

20 2. **Report to the Board**

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

1 **3. Interview with the Board**

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

7 **4. Cooperate with Board Staff**

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

11 **5. Continuing Education**

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

14 **6. Notice to Employers**

15 During the period of probation, respondent shall notify all present and prospective
16 employers of the decision in case number 5279 and the terms, conditions and restrictions imposed
17 on respondent by the decision, as follows:

18 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
19 respondent undertaking any new employment, respondent shall cause her direct supervisor,
20 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
21 tenure of employment) and owner to report to the board in writing acknowledging that the listed
22 individual(s) has/have read the decision in case number 5279, and terms and conditions imposed
23 thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s)
24 submit timely acknowledgment(s) to the board.

25 If respondent works for or is employed by or through a pharmacy employment service,
26 respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
27 licensed by the board of the terms and conditions of the decision in case number 5279 in advance
28

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

3 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
4 (15) days of respondent undertaking any new employment by or through a pharmacy employment
5 service, respondent shall cause her direct supervisor with the pharmacy employment service to
6 report to the board in writing acknowledging that she has read the decision in case number 5279
7 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
8 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

9 Failure to timely notify present or prospective employer(s) or to cause that/those
10 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
11 probation. The term "Employment" within the meaning of this provision shall include any full-
12 time, part-time, temporary, relief or pharmacy management service as a pharmacist or any
13 position for which a pharmacist license is a requirement or criterion for employment, whether the
14 respondent is an employee, independent contractor or volunteer.

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

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

21 **8. Probation Monitoring Costs**

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

26 **9. Status of License**

27 Respondent shall, at all times while on probation, maintain an active, current license
28 with the board, including any period during which suspension or probation is tolled. Failure to

1 maintain an active, current license shall be considered a violation of probation.

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

6 **10. License Surrender While on Probation/Suspension**

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

14 Upon acceptance of the surrender, respondent shall relinquish her pocket and wall license to
15 the board within ten (10) days of notification by the board that the surrender is accepted.
16 Respondent may not reapply for any license from the board for three (3) years from the effective
17 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
18 of the date the application for that license is submitted to the board, including any outstanding
19 costs.

20 **11. Notification of a Change in Name, Residence Address, Mailing Address or**
21 **Employment**

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

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

1 **12. Tolling of Probation**

2 Except during periods of suspension, respondent shall, at all times while on probation, be
3 employed as a pharmacist in California for a minimum of 10 hours per calendar month. Any
4 month during which this minimum is not met shall toll the period of probation, i.e., the period of
5 probation shall be extended by one month for each month during which this minimum is not met.
6 During any such period of tolling of probation, respondent must nonetheless comply with all
7 terms and conditions of probation.

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

13 It is a violation of probation for respondent's probation to remain tolled pursuant to the
14 provisions of this condition for a total period, counting consecutive and non-consecutive months,
15 exceeding thirty-six (36) months. The term "Cessation of practice" means any calendar month
16 during which respondent is not practicing as a pharmacist for at least 10 hours, as defined by
17 Business and Professions Code section 4000 et seq. "Resumption of practice" means any
18 calendar month during which respondent is practicing as a pharmacist for at least 10 hours as a
19 pharmacist as defined by Business and Professions Code section 4000 et seq.

20 **13. Violation of Probation**

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

26 If respondent violates probation in any respect, the board, after giving respondent notice
27 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
28 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a

1 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
2 a petition to revoke probation or an accusation is filed against respondent during probation, the
3 board shall have continuing jurisdiction and the period of probation shall be automatically
4 extended until the petition to revoke probation or accusation is heard and decided, and the charges
5 and allegations in the Statement of Issues shall be deemed true and correct.

6 **14. Completion of Probation**

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

9 **15. Intern Pharmacist Experience**

10 Within ninety (90) days of the effective date of this decision, respondent shall submit to the
11 board or its designee, for prior approval, a pharmacy intern training program consisting of 1500
12 hours to be served as an intern pharmacist in a community and/or institutional pharmacy as
13 directed.

14 Respondent shall not complete more than 1000 hours at Care Plus Pharmacy, Inc., and must
15 complete the balance of 500 hours at another pharmacy.

16 Respondent shall successfully complete the intern hours within the first year of probation
17 and shall, by no later than one (1) year from the effective date of this decision, submit proof
18 satisfactory to the board of completion of this experience signed under penalty of perjury by both
19 the respondent and supervising pharmacist. Failure to timely complete or document the required
20 intern experience shall be considered a violation of probation.

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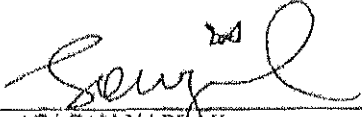
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ACCEPTANCE

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

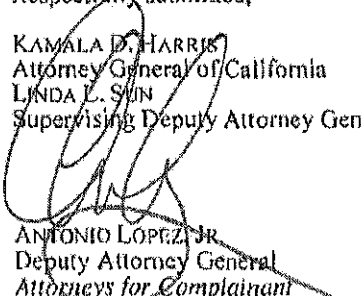
DATED: 4/25/16 
SONGUL AFACAN YAPRAK
Respondent

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

DATED: 4/25/16 
HERBERT L. WEINBERG
Attorney for Respondent

ENDORSEMENT

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

Dated: 4/25/16 Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General

ANTONIO LOPEZ JR
Deputy Attorney General
Attorneys for Complainant

LA2014513346

Exhibit A

Statement of Issues No. 5279

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2 ARMANDO ZAMBRANO
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7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues
12 Against:
13 **SONGUL AFACAN YAPRAK**
14 Intern Pharmacist Registration Applicant
15 Respondent.

Case No. 5279

STATEMENT OF ISSUES

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs
21 (Board):
- 22 2. On or about December 20, 2013, the Board received an application for an Intern
23 Pharmacist Registration from Songul Afacan Yaprak (Respondent). On or about December 18,
24 2013, Respondent certified under penalty of perjury to the truthfulness of all statements, answers,
25 and representations in the application. The Board denied the application on June 10, 2014.

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1 JURISDICTION

2 3. This Statement of Issues is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 STATUTORY PROVISIONS

6 4. Section 480 states, in pertinent part:

7 "(a) A board may deny a license regulated by this code on the grounds that the applicant
8 has one of the following:

9

10 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
11 would be grounds for suspension or revocation of license.

12 (B) The board may deny a license pursuant to this subdivision only if the crime or act
13 is substantially related to the qualifications, functions, or duties of the business or profession for
14 which application is made.

15 "(b) Notwithstanding any other provision of this code, no person shall be denied a license
16 solely on the basis that he or she has been convicted of a felony if he or she has obtained a
17 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
18 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
19 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
20 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
21 Section 482."

22 5. Section 4030 of the Code states:

23 "‘Intern pharmacist’ means a person issued a license pursuant to Section 4208."

24 6. Section 4114 of the Code states:

25 "(a) An intern pharmacist may perform all functions of a pharmacist at the discretion of and
26 under the direct supervision and control of a pharmacist whose license is in good standing
27 with the board."

28 ///

1 7. Section 4115 of the Code states:

2

3 "(c) This section does not authorize a pharmacy technician to perform any act
4 requiring the exercise of professional judgment by a pharmacist."

5 8. Section 4208 of the Code states:

6 "(a) At the discretion of the board, an intern pharmacist license may be issued for a period
7 of:

8

9 "(3) Two years to a foreign graduate who has met educational requirements described in
10 paragraphs (1) and (2) of subdivision (a) of Section 4200."

11 9. Section 4301 states, in pertinent part:

12 "The board shall take action against any holder of a license who is guilty of unprofessional
13 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

14 Unprofessional conduct shall include, but is not limited to, any of the following:

15

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

19 ...

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

24 **REGULATORY PROVISIONS**

25 10. California Code of Regulations, title 16, section 1770, states:

26 "For the purpose of denial, suspension, or revocation of a personal or facility license
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare."

4 **CAUSE FOR DENIAL OF APPLICATION**

5 **(Unprofessional Conduct)**

6 11. Respondent's application is subject to denial under Code section 480, subdivision
7 (a)(3)(A), for violating Code sections 4301, subdivisions (f) and (o) and 4115, subdivision (c), in
8 that she performed the duties of an intern pharmacist without a license and which duties were
9 beyond the scope and judgment of a pharmacy technician. The circumstances are as follows:

10 a. On or about July 18, 2007, the Board issued Pharmacy Technician License No. TCH
11 76657 to Respondent. The Pharmacy Technician License was in full force and effect at all times
12 relevant to the charges brought herein and will expire on January 31, 2015, unless renewed.

13 Respondent obtained a foreign Bachelor of Science degree in Pharmacy but does not have an
14 intern pharmacist license issued by the Board in accordance with Code sections 4030, 4114, and
15 4208.

16 b. On or about October 17, 2013, the Board received Respondent's Pharmacy Intern
17 Hours Affidavit, which was certified by Pharmacist-in-Charge Ali Mashayekhi under penalty of
18 perjury that Respondent had worked at Care Plus Pharmacy, Inc. located at 19015 Ventura Blvd in
19 Tarzana as an intern pharmacist from March 10, 2008 to about October 8, 2013.

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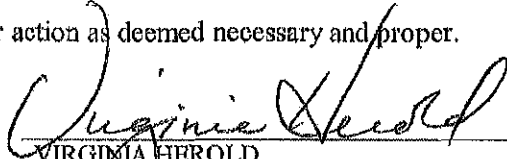
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PRAYER

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

1. Denying the application of Songul Afacan Yaprak for an Intern Pharmacist Registration; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 1/19/15



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

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