

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

In the Matter of the Accusation Against:

**VISHAL RICK LUTHRA
1 Laketrail Cove
Buena Park, CA 90621**

Pharmacist License No. RPH 54431

Respondent.

Case No. 5574

OAH No. 2016110379

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on March 24, 2017.

It is so ORDERED on February 22, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KATHLEEN A. KENEALY
Acting Attorney General of California
2 ANTONETTE B. CINCOTTA
Supervising Deputy Attorney General
3 MANUEL ARAMBULA
Deputy Attorney General
State Bar No. 289718
4 600 West Broadway, Suite 1800
San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 738-9463
Facsimile: (619) 645-2061
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **VISHAL RICK LUTHRA**
14 **1 Laketrail Cove**
15 **Buena Park, CA 90621**

16 **Pharmacist License No. RPH 54431**

17 Respondent.

Case No. 5574

OAH No. 2016110379

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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

20 PARTIES

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
22 (Board). She brought this action solely in her official capacity and is represented in this matter by
23 Kathleen A. Kenealy, Acting Attorney General of the State of California, by Manuel Arambula,
24 Deputy Attorney General.

25 2. Vishal Rick Luthra (Respondent) is represented in this proceeding by attorney Ivan
26 Petrzelka, whose address is Ivan Petrzelka, Pharm.D., J.D., M.B.A., California Pharmacy
27 Lawyers, 2855 Michelle Drive, Suite 180, Irvine, CA 92606-1027.

28 3. On or about March 26, 2003, the Board issued Pharmacist License No. RPH 54431
to Vishal Rick Luthra (Respondent). The Pharmacist License was in full force and effect at all

1 times relevant to the charges brought in Accusation No. 5574 and will expire on December 31,
2 2016, unless renewed.

3 JURISDICTION

4 4. Accusation No. 5574 was filed before the (Board) and is currently pending against
5 Respondent. The Accusation and all other statutorily required documents were properly served on
6 Respondent on April 27, 2016. Respondent timely filed his Notice of Defense contesting the
7 Accusation. A copy of Accusation No. 5574 is attached as Exhibit A and incorporated by
8 reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Accusation No. 5574. Respondent has also carefully read, fully
12 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
13 Order.

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

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

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 5574, agrees that cause exists for discipline and hereby surrenders his Pharmacist License
25 No. RPH 54431 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation he enables the Board to issue
27 an order accepting the surrender of his Pharmacist License without further process.

28 ///

CONTINGENCY

1
2 10. This stipulation shall be subject to approval by the Board. Respondent understands
3 and agrees that counsel for Complainant and the staff of the Board may communicate directly
4 with the Board regarding this stipulation and surrender, without notice to or participation by
5 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
6 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
7 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
8 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
9 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
10 be disqualified from further action by having considered this matter.

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

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

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

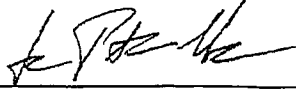
ORDER

22
23 IT IS HEREBY ORDERED that Pharmacist License No. RPH 54431, issued to Respondent
24 Vishal Rick Luthra, is surrendered and accepted by the Board of Pharmacy.

25 1. The surrender of Respondent's Pharmacist License and the acceptance of the
26 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
27 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
28 license history with the Board of Pharmacy.

1 I have read and fully discussed with Respondent Vishal Rick Luthra the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4 DATED: January 31, 2017


5 IVAN PETRZELKA
6 *Attorney for Respondent*

7 ENDORSEMENT

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

10 Dated: 1/31/2017

Respectfully submitted,

11 KATHLEEN A. KENEALY
12 Acting Attorney General of California
13 ANTOINETTE B. CINCOTTA
14 Supervising Deputy Attorney General



15 MANUEL ARAMBULA
16 Deputy Attorney General
17 *Attorneys for Complainant*

18 SD2016700473
19 81563154.docx

Exhibit A

Accusation No. 5574

1 KAMALA D. HARRIS
Attorney General of California
2 ANTONETTE B. CINCOTIA
Supervising Deputy Attorney General
3 MANUEL ARAMBULA
Deputy Attorney General
4 State Bar No. 289718
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2098
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:

Case No. 5574

13 **VISHAL RICK LUTHRA**
14 **1 Laketrail Cove**
Buena Park, CA 90621

ACCUSATION

15 **Pharmacist License No. RPH 54431**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On March 26, 2003, the Board issued Pharmacist License Number RPH 54431 to
24 Vishal Rick Luthra (Respondent). Respondent has also been known as Rick Vishal Luthra. The
25 Pharmacist License was in full force and effect at all times relevant to the charges brought
26 herein, and will expire on December 31, 2016, unless renewed.

27 ///

28 ///

1 **JURISDICTION**

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

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

7 5. Code section 4300.1 states:

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

12 **STATUTORY PROVISIONS**

13 6. Code section 482 states:

14 Each board under the provisions of this code shall develop criteria to
15 evaluate the rehabilitation of a person when:

16 (a) Considering the denial of a license by the board under Section 480; or

17 (b) Considering suspension or revocation of a license under Section 490.

18 Each board shall take into account all competent evidence of rehabilitation
furnished by the applicant or licensee.

19 7. Code section 490 provides, in pertinent part, that a board may suspend or revoke a
20 license on the ground that the licensee has been convicted of a crime substantially related to the
21 qualifications, functions, or duties of the business or profession for which the license was issued.

22 8. Code section 493 states:

23 Notwithstanding any other provision of law, in a proceeding conducted by a
24 board within the department pursuant to law to deny an application for a license or
25 to suspend or revoke a license or otherwise take disciplinary action against a
26 person who holds a license, upon the ground that the applicant or the licensee has
27 been convicted of a crime substantially related to the qualifications, functions, and
28 duties of the licensee in question, the record of conviction of the crime shall be
conclusive evidence of the fact that the conviction occurred, but only of that fact,
and the board may inquire into the circumstances surrounding the commission of
the crime in order to fix the degree of discipline or to determine if the conviction is

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

9. Code section 4301 states, in pertinent part:

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:

...

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

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

...

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of *nolo contendere* is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

...

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769, states, in pertinent part:

...

(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been

1 convicted of a crime, the board, in evaluating the rehabilitation of such person and
2 his present eligibility for a license will consider the following criteria:

- 3 (1) Nature and severity of the act(s) or offense(s).
4 (2) Total criminal record.
5 (3) The time that has elapsed since commission of the act(s) or
6 offense(s).
7 (4) Whether the licensee has complied with all terms of parole,
8 probation, restitution or any other sanctions lawfully imposed against the licensee.
9 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

11 For the purpose of denial, suspension, or revocation of a personal or
12 facility license pursuant to Division 1.5 (commencing with Section 475) of the
13 Business and Professions Code, a crime or act shall be considered substantially
14 related to the qualifications, functions or duties of a licensee or registrant if to a
15 substantial degree it evidences present or potential unfitness of a licensee or
16 registrant to perform the functions authorized by his license or registration in a
17 manner consistent with the public health, safety, or welfare.

18 **COST RECOVERY**

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

25 **FIRST CAUSE FOR DISCIPLINE**

26 (August 18, 2015 Conviction for Grand Theft from January 1, 2003 to December 31, 2011)

27 13. Respondent has subjected his Pharmacist License to disciplinary action under
28 Code sections 490 and 4301, subdivision (l) in that Respondent was convicted of crimes that are
substantially related to the qualifications, functions, and duties of a licensed pharmacist. The
circumstances are as follows:

a. On August 18, 2015, in a criminal proceeding entitled *The People of the
State of California vs. Rick Vishal Luthra*, in Orange County Superior Court, Central Justice

1 Center, Criminal Division, Case Number 15CF1232, Respondent was convicted on his plea of
2 guilty of violating, by 30 counts, Penal Code (PC) section 487, subdivision (a), grand theft, all
3 felonies that were reduced to misdemeanors under PC section 17, subdivision (b). Seventeen
4 counts of felony charges that were reduced to misdemeanor charges under PC section 17,
5 subdivision (b) for violation of Revenue and Tax Code (RTC) sections 7153.5 and 7152,
6 subdivision (a), tax evasion; felony enhancements under PC sections 186.11, subdivision (a)(2),
7 aggravated white-collar crime in excess of \$500,000.00 and 12022.6, subdivisions (a)(3) and (b),
8 taking in excess of \$1,300,000.00, for all 47 counts; and special allegations under PC section
9 1203.045, subdivision (a), denial of probation, and RTC section 7154, statute of limitations, for
10 all 47 counts, were dismissed.

11 b. As a result of the convictions, on August 18, 2015, Respondent was
12 sentenced to 180 days in the Orange County Theo Lacy Jail, which was suspended, and granted
13 three years informal probation under certain terms and conditions. Respondent was ordered to
14 pay fines, assessments, fees, and restitution.

15 c. The facts that led to the conviction are that on and between January 1,
16 2003 and December 31, 2011, while holding an active Pharmacist License and controlling
17 several corporations including Luthra Group, Inc., Luthra Foods, Inc., Luthra Corp., Luthra
18 Enterprises, Inc., R & S Foods, Inc., and B & L Foods, Inc., all in Buena Park, California,
19 Respondent filed false and fraudulent sales tax returns, with the intent to evade an unreported tax
20 liability exceeding \$25,000.00 for each 12 consecutive month period.

21 d. In early 2010, the Board of Equalization (BOE) conducted a Sales and Use
22 Tax audit of Subway Franchisor, aka Doctor's Associates, Inc. (DAI). The audit data provided
23 by DAI included Subway franchises owned and operated by Respondent. The sales tax collected
24 by DAI were compared to the tax returns of Respondent and the entities he controlled. There was
25 a large discrepancy, which necessitated an audit.

26 e. In November 2010, the BOE Irvine Sales and Tax District Office began an
27 audit of Respondent and the business entities he controlled. Respondent retained an accountant

28 ///

1 and a lawyer to address the audit. Both professionals failed to provide sufficient records for
2 examination requested by the auditor.

3 f. On December 22, 2010, the BOE Investigative Division (ID) assigned a
4 conduct of criminal investigation on Respondent and his controlled entities. On June 23, 2011,
5 the BOE ID and the California Highway Patrol served a search warrant on Respondent's
6 business locations, residence, storage facility, and third party affiliates such as banks. The search
7 revealed that Respondent and his business entities were responsible for producing a Weekly
8 Inventory Sales Report (WISR) for each franchise owned and operated by Respondent.

9 g. During the execution of the search, an external drive was discovered at
10 Respondent's home, and a computer was discovered at his office. Both the hard drive and the
11 computer contained a double set of books. For each quarter that Respondent and his controlled
12 entities were responsible for reporting taxable sales, there was a computer file folder labeled
13 "MOD WISR" and a second file folder labeled "NON MOD WISR." The "MOD WISR" folder
14 contained modified WISRs that misrepresented the sales tax collected and matched up with
15 quarterly filings of Respondent and his controlled entities. The "NON MOD WISR" folder
16 documents matched the actual sales tax collected and the documents were received by DAI.

17 h. Due to Respondent's, his accountant, his lawyer, and his controlled
18 entities' failure to provide accurate and complete records during the initial stages of the audit,
19 BOE did not discover that Respondent and his controlled entities underreported the sales tax his
20 stores collected from customers until August 2010, when the audit records were obtained from
21 DAI.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct - Commission of Any Act Involving Moral Turpitude, Dishonesty,
24 Fraud, Deceit, or Corruption)**

25 14. Respondent has subjected his Pharmacist License to disciplinary action under
26 Code section 4301, subdivision (f), in that he committed acts involving moral turpitude,
27 dishonesty, fraud, deceit, and corruption when he and his controlled entities underreported the
28 sales tax his stores collected from customers, evaded payment of taxes, and kept for himself the

1 unreported tax collected, as described in paragraph 13, above, and incorporated herein by this
2 reference.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct - Making Any Document that Falsely Represented the Existence**
5 **of a State of Facts)**

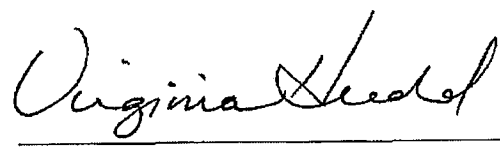
6 15. Respondent has subjected his Pharmacist License to disciplinary action under
7 Code section 4301, subdivision (g), in that he committed acts involving making of documents
8 that falsely represented the existence of a state of facts when he modified Weekly Inventory
9 Sales Report, that originally indicated the sales tax his stores collected from customers.
10 Respondent would then keep the difference and reported only what were left of the sales tax his
11 stores collected for tax returns purposes, as described in paragraph 13, above, and incorporated
12 herein by this reference.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacist License Number RPH 54431 issued to Vishal
17 Rick Luthra;
- 18 2. Ordering Vishal Rick Luthra to pay the Board of Pharmacy the reasonable costs
19 of the investigation and enforcement of this case, pursuant to Business and Professions Code
20 section 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.

22
23
24 DATED: 4/20/16



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

25
26
27
28 SD2016700473
81319412.doc