

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

In the Matter of the Accusation Against:

CVS PHARMACY #5170

9952 Las Tunas Dr.
Temple City, CA 91780

Pharmacy Permit No. PHY 46782,

Respondent.

Case No. 5593

OAH No. 2016090768

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR
PUBLIC REPROVAL**

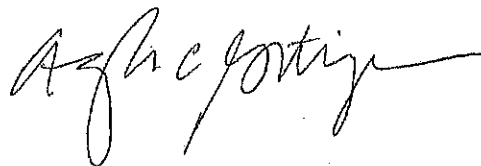
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Reproval 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 December 28, 2017.

It is so ORDERED on November 28, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 MATTHEW A. KING
Deputy Attorney General
4 State Bar No. 265691
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-7446
6 Facsimile: (213) 897-2804
E-mail: Matthew.King@doj.ca.gov
7 *Attorneys for Complainant*

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

10
11 In the Matter of the Accusation Against:

12 **CVS PHARMACY #5170**
9952 Las Tunas Dr.
13 Temple City, CA 91780

14 **Pharmacy Permit No. PHY 46782**

15 Respondent.

Case No. 5593
OAH No. 2016090768

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL**

[Bus. & Prof. Code, § 495]

16
17
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 Xavier Becerra, Attorney General of the State of California, by Matthew A. King, Deputy
24 Attorney General.

25 2. CVS Pharmacy #5170 (Respondent) is represented in this proceeding by attorney
26 Paul Van Hoomissen of Much Shelist, P.C., whose address is 2 Park Plaza, Suite 1075, Irvine,
27 California 92614.

28 ///

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in First Amended Accusation No. 5593.

10. Respondent agrees that its Pharmacy Permit is subject to discipline and it agrees to be bound by the Disciplinary Order below.

CONTINGENCY

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

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

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

///

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

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 46782 issued to Respondent
6 CVS Pharmacy #5170 shall be publicly reprovved by the Board of Pharmacy under Business and
7 Professions Code section 495 in resolution of First Amended Accusation No. 5593 (attached as
8 exhibit A).

9 IT IS FURTHER ORDERED that Respondent shall comply with the following terms and
10 conditions:

11 1. **Cost Recovery.** Within 30 days of the effective date of the decision and order,
12 Respondent shall pay \$6,797.75 to the Board for the costs associated with the investigation and
13 enforcement of this matter. Respondent will not be allowed to renew its Pharmacy Permit until
14 the costs are paid in full.

15 2. **Policy and Procedures Under Bus. & Prof. Code, § 4104.** Within 90 days of the
16 effective date of the decision and order, Respondent shall develop written policies and procedures
17 for addressing chemical, mental, or physical impairment, as well as theft, diversion, or self-use of
18 dangerous drugs, among licensed individuals employed by or with Respondent. Said policies and
19 procedures must meet the requirements of Business and Professions Code section 4104 and be
20 satisfactory to the Board.

21 3. **Training.** Within 180 days of completing the development of the policies and
22 procedures described in the preceding paragraph (paragraph 2 of the Disciplinary Order),
23 Respondent shall provide in-person training to its staff on said policies and procedures.
24 Respondent shall provide to the Board signed documentation of training for each staff member.

25 ///
26 ///
27 ///
28 ///

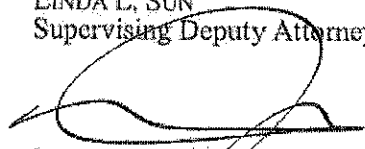
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reapproval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: March 24, 2017

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General



MATTHEW A. KING
Deputy Attorney General
Attorneys for Complainant

LA2015501985 (52411771_2)

Exhibit A

First Amended Accusation No. 5593

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 MATTHEW A. KING
Deputy Attorney General
4 State Bar No. 265691
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
matthew.king@doj.ca.gov
6 (213) 897-7446

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 Accusation Against:
12 **CVS LTD LIABLE CO.,**
13 **d.b.a. CVS PHARMACY NO. 5170**
14 9952 Las Tunas Dr.
Temple City, CA 91780
15 **Pharmacy Permit No. PHY 46782**
16 Respondent.

Case No. 5593
FIRST AMENDED ACCUSATION

18 Complainant alleges:

19 **PARTIES**

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

23 2. On June 9, 2004, the Board of Pharmacy issued Pharmacy Permit Number PHY 46782
24 to CVS LTD Liable Co. to do business as CVS Pharmacy No. 5170 (Respondent). Respondent's
25 pharmacy permit was in full force and effect at all times relevant to the charges brought herein.
26 The permit will expire on June 1, 2017 unless it is renewed.

27 ///
28 ///

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

8. Section 4104 states:

(a) Every pharmacy shall have in place procedures for taking action to protect the public when a licensed individual employed by or with the pharmacy is discovered or known to be chemically, mentally, or physically impaired to the extent it affects his or her ability to practice the profession or occupation authorized by his or her license, or is discovered or known to have engaged in the theft, diversion, or self-use of dangerous drugs.

(b) Every pharmacy shall have written policies and procedures for addressing chemical, mental, or physical impairment, as well as theft, diversion, or self-use of dangerous drugs, among licensed individuals employed by or with the pharmacy.

(c) Every pharmacy shall report and provide to the board, within 14 days of the receipt or development thereof, the following information with regard to any licensed individual employed by or with the pharmacy:

(1) Any admission by a licensed individual of chemical, mental, or physical impairment affecting his or her ability to practice.

(2) Any admission by a licensed individual of theft, diversion, or self-use of dangerous drugs.

(3) Any video or documentary evidence demonstrating chemical, mental, or physical impairment of a licensed individual to the extent it affects his or her ability to practice.

(4) Any video or documentary evidence demonstrating theft, diversion, or self-use of dangerous drugs by a licensed individual.

(5) Any termination based on chemical, mental, or physical impairment of a licensed individual to the extent it affects his or her ability to practice.

(6) Any termination of a licensed individual based on theft, diversion, or self-use of dangerous drugs.

(d) The report required in subdivision (c) shall include sufficient detail to inform the board of the facts upon which the report is based, including an estimate of the type and quantity of all dangerous drugs involved, the timeframe over which the losses are suspected, and the date of the last controlled substances inventory. Upon request of the board, the pharmacy shall prepare and submit an audit involving the dangerous drugs suspected to be missing.

(e) Anyone making a report authorized or required by this section shall have immunity from any liability, civil or criminal, that might otherwise arise from the making of the report. Any participant shall have the same immunity with respect to participation in any administrative or judicial proceeding resulting from the report.

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

9. Section 4301 of the Code 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:

...

(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 [Chapter 9: Pharmacy] 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.

REGULATIONS

10. California Code of Regulations, title 16, section 1714 states in pertinent part:

(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice of pharmacy.

...

(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of dangerous drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting his license to not being renewed or reinstated.

///

///

///

///

///

//

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Failure to Report Pharmacy Employee's Alcohol Impairment)**

3 12. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
4 for unprofessional conduct because it violated a provision of the Pharmacy Law, to wit, Code
5 section 4104, subdivision (c)(1). That section requires pharmacies to report to the Board any
6 admission by a licensed individual of chemical, mental, or physical impairment affecting his ability
7 to practice. The report must be made within 14 days of the admission.

8 13. Respondent failed to timely report the alcohol impairment of a pharmacy technician,
9 who is a licensed individual. On or about October 13, 2014, Respondent's staff observed that a
10 pharmacy technician was so impaired that he could not work his shift. He was driven home by
11 another pharmacy employee. On or about October 17, 2014, he admitted to his supervisor that he
12 had been under the influence of alcohol. Respondent delayed notifying the Board of the pharmacy
13 technician's admission until approximately June 22, 2015.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Lack of Operational Standards and Security)**

16 14. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
17 for unprofessional conduct because it violated a regulation established by the Board, to wit,
18 California Code of Regulations, title 16, section 1714, subdivision (b). That regulation requires
19 pharmacies to maintain their dangerous drugs in a safe and secure manner.

20 15. Respondent failed to maintain its dangerous drugs in a safe and secure manner.
21 An audit of the pharmacy's inventory conducted for the time period of May 1, 2013 through June
22 19, 2015, revealed that Respondent could not account for the following drugs, each of which is
23 classified as a dangerous drug under Business and Professions Code section 4022.

Dangerous Drug	Amount Unaccounted For
APAP/Codeine 120mg/12mg per 5ml syrup	17 ml
ASCOMP with Codeine	169 capsules
APAP/Codeine 300mg/30mg	921 tablets
APAP/Codeine 300 mg/60mg	383 tablets

1	Dangerous Drug	Amount Unaccounted For
2	Hydrocodone/APAP 10-325	2 units
3	Hydrocodone/APAP 5-500	1,544 units

THIRD CAUSE FOR DISCIPLINE

(Failure to Keep Current Inventory and Maintain Drug Records)

16. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), for unprofessional conduct because it violated a provision of the Pharmacy Law, to wit, Code section 4081, subdivision (a). That section requires pharmacies to keep a current inventory and preserve all records of manufacture, sale, acquisition, receipt, shipment, and disposition of dangerous drugs or dangerous devices.

17. Respondent did not preserve records of the disposition of certain dangerous drugs. For the audit period of May 1, 2013 through June 19, 2015, Respondent failed to make and preserve records showing the disposition of the dangerous drugs alleged in paragraph 15. Complainant realleges paragraph 15.

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

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

PRAYER

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

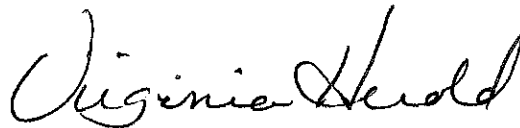
1. Revoking or suspending Pharmacy Permit Number PHY 46782, issued to CVS LTD Liable Co., doing business as CVS Pharmacy No. 5170;

2. Ordering CVS LTD Liable Co., doing business as CVS Pharmacy No. 5170, 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; and,

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

DATED: _____

11/14/16



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

LA2015501985 | 52041192_4

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 MATTHEW A. KING
Deputy Attorney General
4 State Bar No. 265691
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
matthew.king@doj.ca.gov
6 (213) 897-7446

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 Accusation Against:
12 **CVS LTD LIABLE CO.,**
13 **d.b.a. CVS PHARMACY NO. 5170;**
14 **LE TANG, Pharmacist-in-Charge**
15 9952 Las Tunas Dr.
16 Temple City, CA 91780
17 **Pharmacy Permit No. PHY 46782**
Respondent.

Case No. 5593
A C C U S A T I O N

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Complainant Virginia Herold brings this Accusation solely in her official capacity as
22 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
23 2. On June 9, 2004, the Board of Pharmacy issued Pharmacy Permit Number PHY 46782
24 to CVS LTD Liable Co. to do business as CVS Pharmacy No. 5170 (Respondent). Le Tang (RPH
25 59927) is and has been the Pharmacist-in-Charge since October 29, 2010. Respondent's pharmacy
26 permit was in full force and effect at all times relevant to the charges brought herein. The permit
27 will expire on June 1, 2016 unless it is renewed.

28 ///

1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following laws.

3 All section references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 118 of the Code states in pertinent part:

5 (b) The suspension, expiration, or forfeiture by operation of law of a license
6 issued by a board in the department, or its suspension, forfeiture, or cancellation by
7 order of the board or by order of a court of law, or its surrender without the written
8 consent of the board, shall not, during any period in which it may be renewed, restored,
9 reissued, or reinstated, deprive the board of its authority to institute or continue a
10 disciplinary proceeding against the licensee upon any ground provided by law or to
11 enter an order suspending or revoking the license or otherwise taking disciplinary action
12 against the licensee on any such ground.

13 (c) As used in this section, 'board' includes an individual who is authorized by any
14 provision of this code to issue, suspend, or revoke a license, and 'license' includes
15 'certificate,' 'registration,' and 'permit.'

16 5. Section 4300 of the Code states in pertinent part:

17 (a) Every license issued may be suspended or revoked.

18 6. Section 4300.1 of the Code states:

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

25 **STATUTES**

26 7. Section 4081 states in pertinent part:

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

///

1 8. Section 4104 states:

2 (a) Every pharmacy shall have in place procedures for taking action to protect the
3 public when a licensed individual employed by or with the pharmacy is discovered or
4 known to be chemically, mentally, or physically impaired to the extent it affects his or
5 her ability to practice the profession or occupation authorized by his or her license, or is
6 discovered or known to have engaged in the theft, diversion, or self-use of dangerous
7 drugs.

8 (b) Every pharmacy shall have written policies and procedures for addressing
9 chemical, mental, or physical impairment, as well as theft, diversion, or self-use of
10 dangerous drugs, among licensed individuals employed by or with the pharmacy.

11 (c) Every pharmacy shall report and provide to the board, within 14 days of the
12 receipt or development thereof, the following information with regard to any licensed
13 individual employed by or with the pharmacy:

14 (1) Any admission by a licensed individual of chemical, mental, or physical
15 impairment affecting his or her ability to practice.

16 (2) Any admission by a licensed individual of theft, diversion, or self-use of
17 dangerous drugs.

18 (3) Any video or documentary evidence demonstrating chemical, mental, or
19 physical impairment of a licensed individual to the extent it affects his or her ability to
20 practice.

21 (4) Any video or documentary evidence demonstrating theft, diversion, or self-use
22 of dangerous drugs by a licensed individual.

23 (5) Any termination based on chemical, mental, or physical impairment of a
24 licensed individual to the extent it affects his or her ability to practice.

25 (6) Any termination of a licensed individual based on theft, diversion, or self-use
26 of dangerous drugs.

27 (d) The report required in subdivision (c) shall include sufficient detail to inform
28 the board of the facts upon which the report is based, including an estimate of the type
and quantity of all dangerous drugs involved, the timeframe over which the losses are
suspected, and the date of the last controlled substances inventory. Upon request of the
board, the pharmacy shall prepare and submit an audit involving the dangerous drugs
suspected to be missing.

 (e) Anyone making a report authorized or required by this section shall have
immunity from any liability, civil or criminal, that might otherwise arise from the making
of the report. Any participant shall have the same immunity with respect to participation
in any administrative or judicial proceeding resulting from the report.

1 9. Section 4301 of the Code states in pertinent part:

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
5 limited to, any of the following:

6 ...

7 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
8 abetting the violation of or conspiring to violate any provision or term of this chapter
9 [Chapter 9: Pharmacy] or of the applicable federal and state laws and regulations
10 governing pharmacy, including regulations established by the board or by any other
11 state or federal regulatory agency.

12 REGULATIONS

13 10. California Code of Regulations, title 16, section 1714 states in pertinent part:

14 (b) Each pharmacy licensed by the board shall maintain its facilities, space,
15 fixtures, and equipment so that drugs are safely and properly prepared, maintained,
16 secured and distributed. The pharmacy shall be of sufficient size and unobstructed area
17 to accommodate the safe practice of pharmacy.

18 ...

19 (d) Each pharmacist while on duty shall be responsible for the security of the
20 prescription department, including provisions for effective control against theft or
21 diversion of dangerous drugs and devices, and records for such drugs and devices.
22 Possession of a key to the pharmacy where dangerous drugs and controlled substances
23 are stored shall be restricted to a pharmacist.

24 COST RECOVERY

25 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation of the licensing
27 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
28 case, with failure of the licentiate to comply subjecting his license to not being renewed or
reinstated.

///

///

///

///

///

//

1 FIRST CAUSE FOR DISCIPLINE

2 (Failure to Report Pharmacy Employee's Alcohol Impairment)

3 12. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
4 for unprofessional conduct because it violated a provision of the Pharmacy Law, to wit, Code
5 section 4104, subdivision (c)(1). That section requires pharmacies to report to the Board any
6 admission by a licensed individual of chemical, mental, or physical impairment affecting his ability
7 to practice. The report must be made within 14 days of the admission.

8 13. Respondent failed to timely report the alcohol impairment of a pharmacy technician,
9 who is a licensed individual. On or about October 13, 2014, Respondent's staff observed that a
10 pharmacy technician was so impaired that he could not work his shift. He was driven home by
11 another pharmacy employee. On or about October 17, 2014, he admitted to his supervisor that he
12 had been under the influence of alcohol. Respondent delayed notifying the Board of the pharmacy
13 technician's admission until approximately June 22, 2015.

14 SECOND CAUSE FOR DISCIPLINE

15 (Lack of Operational Standards and Security)

16 14. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
17 for unprofessional conduct because it violated a regulation established by the Board, to wit,
18 California Code of Regulations, title 16, section 1714, subdivision (b). That regulation requires
19 pharmacies to maintain their dangerous drugs in a safe and secure manner.

20 15. Respondent failed to maintain its dangerous drugs in a safe and secure manner.
21 An audit of the pharmacy's inventory conducted for the time period of May 1, 2013 through June
22 19, 2015, revealed that Respondent could not account for the following drugs, each of which is
23 classified as a dangerous drug under Business and Professions Code section 4022.

Dangerous Drug	Amount Unaccounted For
APAP/Codeine 120mg/12mg per 5ml syrup	17 ml
ASCOMP with Codeine	169 capsules
APAP/Codeine 300mg/30mg	921 tablets
APAP/Codeine 300 mg/60mg	383 tablets

1	Dangerous Drug	Amount Unaccounted For
2	Hydrocodone/APAP 10-325	2 units
3	Hydrocodone/APAP 5-500	1,544 units

THIRD CAUSE FOR DISCIPLINE

(Failure to Keep Current Inventory and Maintain Drug Records)

16. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), for unprofessional conduct because it violated a provision of the Pharmacy Law, to wit, Code section 4081, subdivision (a). That section requires pharmacies to keep a current inventory and preserve all records of manufacture, sale, acquisition, receipt, shipment, and disposition of dangerous drugs or dangerous devices.

17. Respondent did not preserve records of the disposition of certain dangerous drugs. For the audit period of May 1, 2013 through June 19, 2015, Respondent failed to make and preserve records showing the disposition of the dangerous drugs alleged in paragraph 15. Complainant realleges paragraph 15.

///

///

///

///

///

///

///

///

///

///

///

///

///

///

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

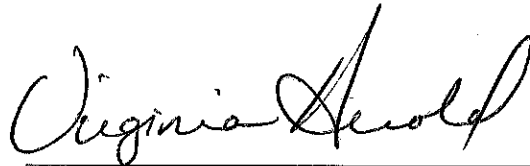
PRAYER

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

1. Revoking or suspending Pharmacy Permit Number PHY 46782, issued to CVS LTD Liable Co., doing business as CVS Pharmacy No. 5170; Le Tang, Pharmacist-in-Charge;
2. Ordering CVS LTD Liable Co., doing business as CVS Pharmacy No. 5170; Le Tang, Pharmacist-in-Charge, 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; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

7/30/16



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

LA2015501985