

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

In the Matter of the Accusation Against:

Case No. 5739

**VIERAN CORP., DBA DRUG CO.  
PHARMACY; HASHEM HEIATI, PRESIDENT; PHUONG  
DUNG NGUYEN, VICE PRESIDENT;  
Pharmacy Permit No. PHY 48533,**

**PHUONG DUNG NGUYEN  
Pharmacist License No. RPH 50748,**

**ROHINEE AGARWAL  
Pharmacist License No. RPH 66992,**

**and**

**HOWARD STANLEY WRIGHT,  
Pharmacist License No. RPH 32151**

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 October 14, 2016.

It is so ORDERED on September 14, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
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9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 5739

12 **VIERAN CORP., DBA DRUG CO.**  
13 **PHARMACY; HASHEM HEIATI,**  
14 **PRESIDENT; PHUONG DUNG NGUYEN,**  
**VICE PRESIDENT;**  
15 **307 North Ash Street**  
**Escondido, CA 92027**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

16 Pharmacy Permit No. PHY 48533,

17 **PHUONG DUNG NGUYEN**  
18 **13596 Penfield Pt.**  
**San Diego, CA 92130**

19 Pharmacist License No. RPH 50748,

20 **ROHINEE AGARWAL**  
21 **13237 Jacarte Court**  
**San Diego, CA 92130**

22 Pharmacist License No. RPH 66992,

23 and

24 **HOWARD STANLEY WRIGHT**  
25 **620 Dorinda Drive**  
**Oceanside, CA 92057**

26 Pharmacist License No. RPH 32151

27 Respondents.  
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1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
2 entitled proceedings that the following matters are true:

3 PARTIES

4 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy  
5 (Board). She brought this action solely in her official capacity and is represented in this matter by  
6 Kamala D. Harris, Attorney General of the State of California, by Nicole R. Trama, Deputy  
7 Attorney General.

8 2. Vieran Corp., doing business as Drug Co. Pharmacy (Respondent Pharmacy) with  
9 Hashem Heiati as President and Phuong Dung Nguyen as Vice President; Phuong Dung Nguyen  
10 (Respondent Nguyen); Rohinee Agarwal (Respondent Agarwal) and Howard Stanley Wright  
11 (Respondent Wright) are represented in this proceeding by attorney Ivan Petrzelka, Esq., whose  
12 address is: 2855 Michelle Drive, Ste. 180, Irvine, CA 92606.

13 3. On or about April 26, 2007, the Board issued Pharmacy Permit No. PHY 48533 to  
14 Respondent Pharmacy. The Pharmacy Permit was in full force and effect at all times relevant to  
15 the charges brought in Accusation No. 5739, and will expire on April 1, 2017, unless renewed.

16 4. On or about March 29, 1999, the Board issued Pharmacist License No. RPH 50748 to  
17 Respondent Nguyen. The Pharmacist License was in full force and effect at all times relevant to  
18 the charges brought in Accusation No. 5739, and will expire on July 31, 2018, unless renewed.

19 5. On or about March 14, 2012, the Board issued Pharmacist License No. RPH 66992 to  
20 Respondent Agarwal. The Pharmacist License was in full force and effect at all times relevant to  
21 the charges brought in Accusation No. 5739, and will expire on May 31, 2017, unless renewed.

22 6. On or about August 3, 1978, the Board issued Pharmacist License No. RPH 32151 to  
23 Respondent Wright. The Pharmacist License was in full force and effect at all times relevant to  
24 the charges brought in Accusation No. 5739, and will expire on March 31, 2018, unless renewed.

25 JURISDICTION

26 7. Accusation No. 5739 was filed before the Board and is currently pending against  
27 Respondents. The Accusation and all other statutorily required documents were properly served

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1 on Respondents on June 2, 2016. Respondents timely filed their Notices of Defense contesting  
2 the Accusation.

3 8. A copy of Accusation No. 5739 is attached as Exhibit A, and incorporated herein by  
4 reference.

5 ADVISEMENT AND WAIVERS

6 9. Respondents have carefully read, fully discussed with counsel, and understand the  
7 charges and allegations in Accusation No. 5739. Respondents have also carefully read, fully  
8 discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary  
9 Order.

10 10. Respondents are fully aware of their legal rights in this matter, including the right to a  
11 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
12 the witnesses against them; the right to present evidence and to testify on their own behalf; the  
13 right to the issuance of subpoenas to compel the attendance of witnesses and the production of  
14 documents; the right to reconsideration and court review of an adverse decision; and all other  
15 rights accorded by the California Administrative Procedure Act and other applicable laws.

16 11. Respondents voluntarily, knowingly, and intelligently waive and give up each and  
17 every right set forth above.

18 CULPABILITY

19 12. Respondents understand and agree that the charges and allegations in Accusation No.  
20 No. 5739, if proven at a hearing, constitute cause for imposing discipline upon Pharmacy Permit  
21 Number PHY 48533, Pharmacist License No. RPH 50748, Pharmacist License No. RPH 66992,  
22 and Pharmacist License No. RPH 32151.

23 13. For the purpose of resolving the Accusation without the expense and uncertainty of  
24 further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual  
25 basis for the charges in the Accusation, and that Respondents hereby give up the right to contest  
26 those charges.

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1 14. Respondents agree that its Pharmacy Permit and Pharmacist License are subject to  
2 discipline and they agree to be bound by the Board's probationary terms as set forth in the  
3 Disciplinary Order below.

4 15. Respondents agree that Pharmacy Permit Number PHY 48533, Pharmacist License  
5 No. RPH 50748, Pharmacist License No. RPH 66992, and Pharmacist License No. RPH 32151  
6 are subject to discipline and they agree to be bound by the Board's probationary terms as set forth  
7 in the Disciplinary Order below.

8 CONTINGENCY

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

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

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

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1 been compliance with all the terms and conditions of probation. Failure to submit timely reports  
2 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency  
3 in submission of reports as directed may be added to the total period of probation. Moreover, if  
4 the final probation report is not made as directed, probation shall be automatically extended until  
5 such time as the final report is made and accepted by the Board.

6 **3. Interview with the Board**

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

12 **4. Cooperate with Board Staff**

13 Respondents shall cooperate with the Board's inspection program and with the Board's  
14 monitoring and investigation of Respondents' compliance with the terms and conditions of their  
15 probation. Failure to cooperate shall be considered a violation of probation.

16 **5. Reimbursement of Board Costs**

17 As a condition precedent to successful completion of probation, Respondents shall pay to  
18 the Board its costs of investigation and prosecution in the amount of \$2,268.00. Within sixty (60)  
19 days of the effective date of this Decision, Respondents shall pay the costs as follows:  
20 Respondent Pharmacy shall pay costs in the amount of \$1,587.60, Respondent Nguyen shall pay  
21 costs in the amount of \$226.80, Respondent Agarwal shall pay costs in the amount of \$226.80,  
22 and Respondent Wright shall pay costs in the amount of \$226.80. There shall be no deviation  
23 from this schedule absent prior written approval by the Board or its designee. Failure to pay costs  
24 by the deadline(s) as directed shall be considered a violation of probation.

25 The filing of bankruptcy by Respondents shall not relieve Respondents of their  
26 responsibility to reimburse the Board its costs of investigation and prosecution.

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1           **6. Probation Monitoring Costs**

2           Respondents shall pay any costs associated with probation monitoring as determined by the  
3 Board each and every year of probation. Such costs shall be payable to the Board on a schedule  
4 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed  
5 shall be considered a violation of probation.

6           **7. Status of License**

7           Respondent Pharmacy shall, at all times while on probation, maintain current licensure with  
8 the Board. If Respondent Pharmacy's owner submits an application to the Board, and the  
9 application is approved, for a change of location, change of permit or change of ownership, the  
10 Board shall retain continuing jurisdiction over the license, and Respondent Pharmacy shall remain  
11 on probation as determined by the Board. Failure to maintain current licensure shall be  
12 considered a violation of probation.

13           Respondents Nguyen, Agarwal and Wright shall, at all times while on probation, maintain a  
14 active, current licenses with the Board, including any period during which suspension or  
15 probation is tolled. Failure to maintain an active, current license shall be considered a violation  
16 of probation.

17           If Respondents' licenses expire or are cancelled by operation of law or otherwise at any  
18 time during the period of probation, including any extensions thereof due to tolling or otherwise,  
19 upon renewal or reapplication Respondents' licenses shall be subject to all terms and conditions of  
20 this probation not previously satisfied.

21           **8. License Surrender While on Probation/Suspension**

22           Following the effective date of this decision, should Respondent Pharmacy discontinue  
23 business, Respondent Pharmacy may tender the premises license to the Board for surrender.  
24 Following the effective date of this decision, should Respondents Nguyen, Agarwal and Wright  
25 cease practice due to retirement or health, or be otherwise unable to satisfy the terms and  
26 conditions of probation, Respondents Nguyen, Agarwal and Wright may tender their licenses to  
27 the Board for surrender. The Board or its designee shall have the discretion whether to grant the  
28 request for surrender or take any other action it deems appropriate and reasonable. Upon formal



1 acceptance of the surrender of the license, Respondents will no longer be subject to the terms and  
2 conditions of probation. This surrender constitutes a record of discipline and shall become a part  
3 of the Respondents' license history with the Board.

4 Upon acceptance of the surrender, Respondents Nguyen, Agarwal and Wright shall  
5 relinquish their pocket and wall license to the Board within ten (10) days of notification by the  
6 Board that the surrender is accepted.

7 Upon acceptance of the surrender, Respondent Pharmacy shall relinquish the premises wall  
8 and renewal license to the Board within ten (10) days of notification by the Board that the  
9 surrender is accepted. Respondent Pharmacy shall further submit a completed Discontinuance of  
10 Business form according to Board guidelines and shall notify the Board of the records inventory  
11 transfer.

12 Respondent Pharmacy shall also, by the effective date of this decision, arrange for the  
13 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written  
14 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that  
15 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating  
16 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five  
17 days of its provision to the pharmacy's ongoing patients, Respondent Pharmacy shall provide a  
18 copy of the written notice to the Board. For the purposes of this provision, "ongoing patients"  
19 means those patients for whom the pharmacy has on file a prescription with one or more refills  
20 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)  
21 days.

22 Respondents may not apply for any new licensure from the Board for three (3) years from  
23 the effective date of the surrender. Respondents shall meet all requirements applicable to the  
24 license sought as of the date the application for that license is submitted to the Board.

25 Respondents shall reimburse the Board for its costs of investigation and prosecution prior to  
26 the acceptance of the surrender.

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1           **9. Notice to Employees**

2           Respondent Pharmacy shall, upon or before the effective date of this Decision, ensure that  
3 all employees involved in permit operations are made aware of all the terms and conditions of  
4 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.  
5 If the notice required by this provision is posted, it shall be posted in a prominent place and shall  
6 remain posted throughout the probation period. Respondent Pharmacy shall ensure that any  
7 employees hired or used after the effective date of this Decision are made aware of the terms and  
8 conditions of probation by posting a notice, circulating a notice, or both. Additionally,  
9 Respondent Pharmacy shall submit written notification to the Board, within fifteen (15) days of  
10 the effective date of this Decision, that this term has been satisfied. Failure to submit such  
11 notification to the Board shall be considered a violation of probation.

12           "Employees" as used in this provision includes all full-time, part-time,  
13 volunteer, temporary and relief employees and independent contractors employed or  
14 hired at any time during probation.

15           **10. Owners and Officers: Knowledge of the Law**

16           Respondent Pharmacy shall provide, within thirty (30) days after the effective date of this  
17 Decision, signed and dated statements from its owners, including any owner or holder of ten  
18 percent (10%) or more of the interest in Respondent or Respondent Pharmacy's stock, and any  
19 officer, stating under penalty of perjury that said individuals have read and are familiar with state  
20 and federal laws and regulations governing the practice of pharmacy. The failure to timely  
21 provide said statements under penalty of perjury shall be considered a violation of probation.

22           **11. Posted Notice of Probation**

23           Respondent Pharmacy shall prominently post a probation notice provided by the Board in a  
24 place conspicuous and readable to the public. The probation notice shall remain posted during  
25 the entire period of probation.

26           Respondent Pharmacy shall not, directly or indirectly, engage in any conduct or make any  
27 statement which is intended to mislead or is likely to have the effect of misleading any patient,  
28 customer, member of the public, or other person(s) as to the nature of and reason for the probation

1 of the licensed entity.

2 Failure to post such notice shall be considered a violation of probation.

3 **12. Violation of Probation**

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

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

16 **13. Completion of Probation**

17 Upon written notice by the Board or its designee indicating successful completion of  
18 probation, Respondents' license will be fully restored.

19 **14. Report of Compounded Medications**

20 Respondent Pharmacy shall submit quarterly reports to the Board detailing the medications  
21 compounded by Respondent Pharmacy, as directed by the Board or its designee. The report shall  
22 be delivered or mailed to the Board no later than ten (10) days following the end of the reporting  
23 period. Failure to timely prepare or submit such reports shall be considered a violation of  
24 probation.

25 **15. Continuing Education**

26 Respondents Nguyen, Agarwal and Wright shall provide evidence of efforts to maintain  
27 skill and knowledge as a pharmacist as directed by the Board or its designee.

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1           **16. Notice to Employers**

2           During the period of probation, Respondents Nguyen, Agarwal and Wright shall notify all  
3 present and prospective employers of the Decision in case number 5739 and the terms, conditions  
4 and restrictions imposed on respondent by the decision, as follows:

5           Within thirty (30) days of the effective date of this Decision, and within fifteen (15) days of  
6 Respondents Nguyen, Agarwal and Wright undertaking any new employment, Respondents  
7 Nguyen, Agarwal and Wright shall cause their direct supervisor, pharmacist-in-charge (including  
8 each new pharmacist-in-charge employed during respondent's tenure of employment) and owner  
9 to report to the Board in writing acknowledging that the listed individual(s) has/have read the  
10 Decision in case number 5739, and terms and conditions imposed thereby. It shall be  
11 Respondents Nguyen, Agarwal and Wright's responsibility to ensure that their employer(s) and/or  
12 supervisor(s) submit timely acknowledgment(s) to the Board.

13           If Respondents Nguyen, Agarwal and Wright work for or is employed by or through a  
14 pharmacy employment service, Respondents Nguyen, Agarwal and Wright must notify their  
15 direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the Board of the  
16 terms and conditions of the decision in case number 5739 in advance of the Respondents Nguyen,  
17 Agarwal and Wright commencing work at each licensed entity. A record of this notification must  
18 be provided to the Board upon request.

19           Furthermore, within thirty (30) days of the effective date of this Decision, and within fifteen  
20 (15) days of Respondents Nguyen, Agarwal and Wright undertaking any new employment by or  
21 through a pharmacy employment service, Respondents Nguyen, Agarwal and Wright shall cause  
22 their direct supervisor with the pharmacy employment service to report to the Board in writing  
23 acknowledging that they has read the Decision in case number 5739 and the terms and conditions  
24 imposed thereby. It shall be Respondent Nguyen, Agarwal and Wright's responsibility to ensure  
25 that their employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

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

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

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

7 During the period of probation, Respondents Nguyen, Agarwal and Wright shall not  
8 supervise any intern pharmacist, be the pharmacist-in-charge or designated representative-in-  
9 charge of any entity licensed by the Board nor serve as a consultant unless otherwise specified in  
10 this order. Assumption of any such unauthorized supervision responsibilities shall be considered  
11 a violation of probation.

12 **18. Notification of a Change in Name, Residence Address, Mailing Address or**  
13 **Employment**

14 Respondents Nguyen, Agarwal and Wright shall notify the Board in writing within ten (10)  
15 days of any change of employment. Said notification shall include the reasons for leaving, the  
16 address of the new employer, the name of the supervisor and owner, and the work schedule if  
17 known. Respondents Nguyen, Agarwal and Wright shall further notify the Board in writing  
18 within ten (10) days of a change in name, residence address, mailing address, or phone number.

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

21 **19. Tolling of Probation**

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

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

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

10           "Cessation of practice" means any calendar month during which Respondent  
11 Nguyen is not practicing as a pharmacist for at least forty (40) hours, as defined by  
12 Business and Professions Code section 4000 et seq. "Resumption of practice" means  
13 any calendar month during which Respondent Nguyen is practicing as a pharmacist  
14 for at least forty (40) hours as a pharmacist as defined by Business and Professions  
15 Code section 4000 et seq.

16           Except during periods of suspension, Respondents Agarwal and Wright shall, at all times  
17 while on probation, be employed as a pharmacist in California for a minimum of thirty-two (32)  
18 hours per calendar month. Any month during which this minimum is not met shall toll the period  
19 of probation, i.e., the period of probation shall be extended by one month for each month during  
20 which this minimum is not met. During any such period of tolling of probation, Respondents  
21 Agarwal and Wright must nonetheless comply with all terms and conditions of probation.

22           Should Respondents Agarwal and Wright, regardless of residency, for any reason  
23 (including vacation) cease practicing as a pharmacist for a minimum of thirty-two (32) hours per  
24 calendar month in California, Respondents Agarwal and Wright must notify the Board in writing  
25 within ten (10) days of the cessation of practice, and must further notify the Board in writing  
26 within ten (10) days of the resumption of practice. Any failure to provide such notification(s)  
27 shall be considered a violation of probation.

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1 It is a violation of probation for Respondents Agarwal and Wright's probation to remain  
2 tolled pursuant to the provisions of this condition for a total period, counting consecutive and  
3 non-consecutive months, exceeding thirty-six (36) months.

4 "Cessation of practice" means any calendar month during which Respondents  
5 Agarwal and Wright's are not practicing as a pharmacist for at least thirty-two (32)  
6 hours, as defined by Business and Professions Code section 4000 et seq .

7 "Resumption of practice" means any calendar month during which Respondents  
8 Agarwal and Wright are practicing as a pharmacist for at least thirty-two (32) hours  
9 as a pharmacist as defined by Business and Professions Code section 4000 et seq.

#### 10 20. Ethics Course

11 Within sixty (60) calendar days of the effective date of this Decision, Respondents Nguyen,  
12 Agarwal and Wright shall enroll in a course in ethics, at Respondents' expense, approved in  
13 advance by the Board or its designee. Failure to initiate the course during the first year of  
14 probation, and complete it within the second year of probation, is a violation of probation. The  
15 ethics course shall be in addition to, and shall not be credited toward, continuing education (CE)  
16 courses used for license renewal purposes.

17 Respondents Nguyen, Agarwal and Wright shall submit a certificate of completion to the  
18 Board or its designee within five days after completing the course.

#### 19 21. Remedial Education

20 Within thirty (30) days of the effective date of this decision, Respondent Wright shall  
21 submit to the Board or its designee, for prior approval, an appropriate program of remedial  
22 education related to compounding and FDA regulations. The program of remedial education  
23 shall consist of at least twelve (12) hours, which shall be completed during the first year of  
24 probation at Respondent Wright's own expense. All remedial education shall be in addition to,  
25 and shall not be credited toward, continuing education (CE) courses used for license renewal  
26 purposes.

27 Failure to timely submit or complete the approved remedial education shall be considered a  
28 violation of probation. The period of probation will be automatically extended until such

1 remedial education is successfully completed and written proof, in a form acceptable to the  
2 Board, is provided to the Board or its designee.

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

9       **22. Consultant for Owner or Pharmacist-In-Charge**

10       During the period of probation, Respondent Nguyen shall not supervise any intern  
11 pharmacist or serve as a consultant to any entity licensed by the Board. Respondent Nguyen may  
12 be the pharmacist-in-charge of Respondent Pharmacy. However, if during the period of probation  
13 Respondent Nguyen serves as a pharmacist-in-charge, Respondent Nguyen shall retain an  
14 independent consultant who specializes in compounding, at Respondent Nguyen's own expense,  
15 who shall be responsible for reviewing pharmacy operations on a monthly basis for compliance  
16 by Respondent Nguyen with state and federal laws and regulations governing the practice of  
17 pharmacy and for compliance by Respondent Nguyen the obligations of a pharmacist-in-charge.  
18 The consultant shall be a pharmacist licensed by and not on probation with the Board and whose  
19 name shall be submitted to the Board or its designee, for prior approval, within thirty (30) days of  
20 the effective date of this Decision. Respondent Nguyen shall not be a pharmacist-in-charge at  
21 more than one pharmacy. Failure to timely retain, seek approval of, or ensure timely reporting by  
22 the consultant shall be considered a violation of probation.

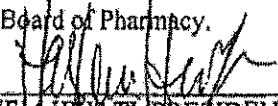
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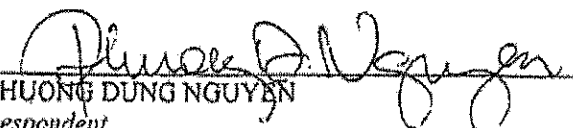
1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorney, Ivan Petrzelka, Esq. I understand the stipulation and the effect it  
4 will have on Pharmacy Permit Number PHY 48533, Pharmacist License No. RPH 50748,  
5 Pharmacist License No. RPH 66992, and Pharmacist License No. RPH 32151. I enter into this  
6 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
7 to be bound by the Decision and Order of the Board of Pharmacy.


8 DATED: 8/10/16

  
HASHEM HEYATI, PRESIDENT AND  
AUTHORIZED AGENT ON BEHALF OF VIERAN  
CORP., DBA DRUG CO. PHARMACY  
Respondent

11  
12 DATED: 8/10/16

  
PHUONG DUNG NGUYEN  
Respondent

14  
15 DATED: 8/9/16

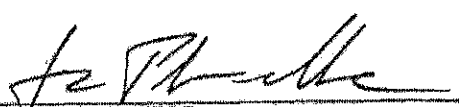
  
ROHINEE AGARWAL  
Respondent

17  
18 DATED: 8/10/16

  
HOWARD STANLEY WRIGHT  
Respondent

19  
20 I have read and fully discussed with Respondents the terms and conditions and other  
21 matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form  
22 and content.

23 DATED: August 10, 2016

  
IVAN PETRZELKA, ESQ.  
Attorney for Respondents

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ENDORSEMENT

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

Dated: August 19 2016

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
ANTOINETTE B. CINCOTTA  
Supervising Deputy Attorney General

  
NICOLE R. TRAMA  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 5739**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ANTOINETTE B. CINCOTTA  
Supervising Deputy Attorney General  
3 NICOLE R. TRAMA  
Deputy Attorney General  
4 State Bar No. 263607  
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6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 5739

13 **VIERAN CORP.,**  
**DBA DRUG CO. PHARMACY;**  
14 **HASHEM HEIATI, PRESIDENT;**  
**PHUONG DUNG NGUYEN, VICE PRESIDENT**  
15 307 North Ash Street  
Escondido, CA 92027

**A C C U S A T I O N**

16 Pharmacy Permit No. PHY 48533

17 **PHUONG DUNG NGUYEN**  
18 13596 Penfield Point  
San Diego, CA 92130

19 Pharmacist License No. RPH 50748

20 **ROHINEE AGARWAL**  
21 13227 Jacarte Court  
San Diego, CA 92130

22 Pharmacist License No. RPH 66992

23 and

24 **HOWARD STANLEY WRIGHT**  
25 620 Dorinda Drive  
Oceanside, CA 92057

26 Pharmacist License No. RPH 32151

27 Respondents.  
28

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, Department of Consumer Affairs (Board).

5 2. On or about April 26, 2007, the Board issued Pharmacy Permit Number PHY 48533  
6 to Vieran Corp., to do business as Drug Co. Pharmacy (Respondent Pharmacy), with Hashem  
7 Heiati as President and Phuong Dung Nguyen as Vice President. The Pharmacy Permit was in  
8 full force and effect at all times relevant to the charges brought herein, and will expire on April 1,  
9 2016, unless renewed.

10 3. On or about March 29, 1999, the Board issued Pharmacist License No. RPH 50748 to  
11 Phuong Dung Nguyen (Respondent Nguyen). The Pharmacist License was in full force and  
12 effect at all times relevant to the charges brought herein, and will expire on July 31, 2016, unless  
13 renewed.

14 4. On or about March 14, 2012, the Board issued Pharmacist License No. RPH 66992 to  
15 Rohinee Agarwal (Respondent Agarwal). The Pharmacist License was in full force and effect at  
16 all times relevant to the charges brought herein, and will expire on May 31, 2017, unless renewed.

17 5. On or about August 3, 1978, the Board issued Pharmacist License No. RPH 32151 to  
18 Howard Stanley Wright (Respondent Wright). The Pharmacist License was in full force and  
19 effect at all times relevant to the charges brought herein, and will expire on March 31, 2018,  
20 unless renewed.

21 **JURISDICTION**

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

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

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

1 9. Section 4300.1 of the Code states:

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

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

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

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

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

## 25 STATUTORY PROVISIONS

26 11. Section 4013(a) of the Code states:

27 Any facility licensed by the board shall join the board's e-mail notification list  
28 within 60 days of obtaining a license or at the time of license renewal.

12. Section 4059(b) of the Code states:

13 A pharmacist may furnish a dangerous drug authorized for use pursuant to  
14 Section 2620.3 to a physical therapist. A record containing the date, name and  
15 address of the buyer, and name and quantity of the drug shall be maintained. This  
16 subdivision shall not be construed to authorize the furnishing of a controlled  
17 substance.

13. Section 4059.5(e) of the Code states:

14 A dangerous drug or dangerous device shall not be transferred, sold, or  
15 delivered to a person outside this state, whether foreign or domestic, unless the

1 transferor, seller, or deliverer does so in compliance with the laws of this state and  
2 of the United States and of the state or country to which the dangerous drugs or  
3 dangerous devices are to be transferred, sold, or delivered. Compliance with the  
4 laws of this state and the United States and of the state or country to which the  
5 dangerous drugs or dangerous devices are to be delivered shall include, but not be  
6 limited to, determining that the recipient of the dangerous drugs or dangerous  
7 devices is authorized by law to receive the dangerous drugs or dangerous devices.

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14. Section 4081 of the Code states:

(a) All records of manufacture and of sale, acquisition, receipt, shipment, or 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.

(b) The owner, officer, and partner of a pharmacy, wholesaler, third-party logistics provider, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge, responsible manager, or designated representative-in-charge, for maintaining the records and inventory described in this section.

(c) The pharmacist-in-charge, responsible manager, or designated representative-in-charge shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge, responsible manager, or designated representative-in-charge had no knowledge, or in which he or she did not knowingly participate.

15. Section 4113, subdivision (c) of the Code provides that 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.

16. Section 4126.5(a)(4) of the Code states:

(a) A pharmacy may furnish dangerous drugs only to the following:

....

(4) Another pharmacy or wholesaler to alleviate a temporary shortage of a dangerous drug that could result in the denial of health care. A pharmacy furnishing dangerous drugs pursuant to this paragraph may only furnish a quantity sufficient to alleviate the temporary shortage.

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17. Section 4169 of the Code states:

(a) A person or entity shall not do any of the following:

(1) Purchase, trade, sell, warehouse, distribute, or transfer dangerous drugs or dangerous devices at wholesale with a person or entity that is not licensed with the board as a wholesaler, third-party logistics provider, or pharmacy.

(2) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were adulterated, as set forth in Article 2 (commencing with Section 111250) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

(3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were misbranded, as defined in Section 111335 of the Health and Safety Code.

(4) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices after the beyond use date on the label.

(5) Fail to maintain records of the acquisition or disposition of dangerous drugs or dangerous devices for at least three years.

(b) Notwithstanding any other law, a violation of this section may subject the person or entity that has committed the violation to a fine not to exceed the amount specified in Section 125.9 for each occurrence, pursuant to a citation issued by the board.

(c) Amounts due from any person under this section shall be offset as provided under Section 12419.5 of the Government Code. Amounts received by the board under this section shall be deposited into the Pharmacy Board Contingent Fund.

(d) This section shall not apply to a pharmaceutical manufacturer licensed by the Food and Drug Administration or by the State Department of Public Health.

18. 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:

....

(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.

....



1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
2 abetting the violation of or conspiring to violate any provision or term of this  
3 chapter or of the applicable federal and state laws and regulations governing  
4 pharmacy, including regulations established by the board or by any other state or  
5 federal regulatory agency.

6 . . . .  
7 19. Health and Safety Code section 111335 provides that any drug or device is  
8 misbranded if its labeling or packaging does not conform to the requirements of Chapter 4  
9 (commencing with Section 110290.)

10 20. Health and Safety Code section 111400 provides that any drug or device is  
11 misbranded if it is dangerous to health when used in the dosage, or with the frequency or duration  
12 prescribed, recommended, or suggested in its labeling.

13 21. Health and Safety Code section 111440 provides that it is unlawful for any person to  
14 manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded.

15 22. Health and Safety Code section 111450 provides that it is unlawful for any person to  
16 receive in commerce any drug or device that is misbranded or to deliver or proffer for delivery  
17 any drug or device.

18 23. Title 21 United States Code section 352 states:

19 A Drug or device shall be deemed to be misbranded—

20 . . .

21 (f) Directions for use and warnings on label

22 Unless its labeling bears (1) adequate directions for use; and (2) such adequate  
23 warnings against use in those pathological conditions or by children where its use  
24 may be dangerous to health, or against unsafe dosage or methods or duration of  
25 administration or application, in such manner and form, as are necessary for the  
26 protection of users, except that where any requirement of clause (1) of this paragraph,  
27 as applied to any drug or device, is not necessary for the protection of the public  
28 health, the Secretary shall promulgate regulations exempting such drug or device  
from such requirement. Required labeling for prescription devices intended for use in  
health care facilities or by a health care professional and required labeling for in vitro  
diagnostic devices intended solely by electronic means, provided that the labeling  
complies with all applicable requirements of law, and that the manufacturer affords  
such users the opportunity to request the labeling in paper form, and after such  
request, promptly provides the requested information without additional cost.

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## REGULATORY PROVISIONS

24. California Code of Regulations, title 16, section 1735, subdivision (a):  
states in pertinent part:

“Compounding” means any of the following activities occurring in a licensed pharmacy, by or under the supervision of a licensed pharmacist, pursuant to a prescription:

- (1) Altering the dosage form or delivery system of a drug
- (2) Altering the strength of a drug
- (3) Combining components or active ingredients
- (4) Preparing a drug product from chemicals or bulk drug substances

...

25. California Code of Regulations, title 16, section 1735 states:

(a) “Compounding” means any of the following activities occurring in a licensed pharmacy, by or under the supervision of a licensed pharmacist, pursuant to a prescription:

- (1) Altering the dosage form or delivery system of a drug
- (2) Altering the strength of a drug
- (3) Combining components or active ingredients
- (4) Preparing a drug product from chemicals or bulk drug substances

(b) “Compounding” does not include reconstitution of a drug pursuant to a manufacturer’s direction(s) for oral, rectal topical, or injectable administration, nor does it include tablet splitting or the addition of flavoring agent(s) to enhance palatability.

(c) “Compounding” does not include, except in small quantities under limited circumstances as justified by a specific, documented, medical need, preparation of a compounded drug product that is commercially available in the marketplace or that is essentially a copy of a drug product that is commercially available in the marketplace.

(d) The parameters and requirements stated by this Article 4.5 (Section 1735 et seq.) apply to all compounding practices. Additional parameters and requirements applicable solely to sterile injectable compounding are stated by Article 7 (Section 1751 et seq.).

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26. California Code of Regulations, title 16, section 1735.2 states:

....

(d) A drug product shall not be compounded until the pharmacy has first prepared a written master formula record that includes at least the following elements:

- (1) Active ingredients to be used.
- (2) Equipment to be used.
- (3) Expiration dating requirements.
- (4) Inactive ingredients to be used.
- (5) Process and/or procedure used to prepare the drug.
- (6) Quality reviews required at each step in preparation of the drug.
- (7) Post-compounding process or procedures required, if any.

....

(h) Every compounded drug product shall be given an expiration date representing the date beyond which, in the professional judgment of the pharmacist performing or supervising the compounding, it should not be used. This "beyond use date" of the compounded drug product shall not exceed 180 days from preparation or the shortest expiration date of any component in the compounded drug product, unless a longer date is supported by stability studies of finished drugs or compounded drug products using the same components and packaging. Shorter dating than set forth in this subsection may be used if it is deemed appropriate in the professional judgment of the responsible pharmacist.

(i) The pharmacist performing or supervising compounding is responsible for the proper preparation, labeling, storage, and delivery of the compounded drug product.

....

**COST RECOVERY**

27. 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 or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

///

1 DRUG

2 28. Domperidone is a drug not approved for use in humans in the United States by the  
3 Food and Drug Administration. Drug products compounded using domperidone are subject to  
4 the approval requirements of the Federal Food, Drug and Cosmetic Act.

5 FACTUAL ALLEGATIONS

6 29. Since April 26, 2007, and at all times mentioned herein, Respondent Nguyen has been  
7 the Pharmacist-in-Charge (PIC) of Respondent Pharmacy. Respondent Agarwal and Respondent  
8 Wright are staff pharmacists at Respondent Pharmacy.

9 30. On June 7, 2004, the FDA issued a talk paper titled, "FDA Warns Against Women  
10 Using Unapproved Drug, Domperidone, to Increase Milk Production." The paper stated in  
11 pertinent part that domperidone is an "unapproved drug," and that it is "not approved in the U.S.  
12 for any indication." It also warned breast-feeding women not to use the product because of safety  
13 concerns, and that FDA field personnel were alerted to be on the lookout for attempts to import  
14 domperidone so it could be detained. The talk paper indicated that the FDA issued six letters to  
15 pharmacies that compound products containing domperidone and firms that supply domperidone  
16 for use in compounding. The paper stated, "[t]he letters issued by FDA today stated that all drug  
17 products containing domperidone (whether compounded or not) violate the Federal Food, Drug,  
18 and Cosmetic Act (the Act) because they are unapproved new drugs and misbranded. In addition,  
19 distribution within the U.S., or importation of domperidone-containing products, violates the  
20 law."

21 31. On March 18, 2011, the FDA issued an import alert for domperidone indicating the  
22 agency learned domperidone was being imported as a bulk active pharmaceutical ingredient for  
23 pharmacy compounding, and presented a public health risk and violated the Act.

24 32. On March 12, 2012, the FDA issued a revised import alert for domperidone. This  
25 revised import alert stated that "... domperidone is not appropriate for pharmacy compounding  
26 use because this bulk active ingredient is not a component of an FDA approved drug, or is a  
27 component of a drug that was withdrawn or removed from the market for safety reasons."

28 ///

1 33. On or about April 14, 2015, the Board issued a "subscriber alert" to pharmacies and  
 2 pharmacists stating, "Domperidone is not FDA-approved for any use in humans in the United  
 3 States. Drug products compounded using domperidone are subject to the approval requirements  
 4 of the Federal Food, Drug, and Cosmetic Act."

5 34. Respondents did not possess a FDA-approved Investigational New Drug application,  
 6 allowing them expanded access for domperidone.

7 35. Between April 21, 2015 and June 5, 2015, Respondents compounded and dispensed  
 8 fourteen prescriptions for domperidone. Of the fourteen prescriptions dispensed for  
 9 domperidone, ten prescriptions for domperidone were compounded without first preparing the  
 10 required written master formula, and eleven prescriptions for domperidone were assigned a  
 11 beyond-use-date (BUD) that was greater than 180 days from the compounded date, as follows:

Date	Lot/RX #	Strength	Amount compounded	BUD	Verifying RPH	Findings
4/21/2015	297274	10 mg	100	10/2015	Agarwal	BUD > 180 day
4/27/2015	292778	10 mg	100	10/2015	Nguyen	BUD > 180 day
4/16/2015	297130	30 mg	100	10/2015	Wright	BUD > 180 day; No master formula for 30 mg
4/29/2015	297546	30 mg	100	10/2015	Nguyen	BUD > 180 day; No master formula for 30 mg
5/7/2015	297888	10 mg	30	10/2015	Nguyen	
5/18/2015	298252	20 mg	100	8/15/11/15	Agarwal	BUD unclear; No master formula for 20 mg
5/18/2015	298304	20 mg	200	11/2015	Agarwal	BUD > 180 day; No master formula for 20 mg
5/5/2015	597785	30 mg	100	11/2015	Agarwal	BUD > 180 day; No master formula for 30 mg
5/8/2015	297939	30 mg	90	11/2015	Nguyen	BUD > 180 day; No master formula for 30 mg
5/12/2015	297130	30 mg	100	11/2015	Agarwal	BUD > 180 day; No master formula for 30 mg

1	5/21/2015	298407	30 mg	90	11/2015	Nguyen	BUD > 180 day; No master formula for 30 mg
2	5/28/2015	298583	30 mg	100	11/2015	Wright	BUD > 180 day; No master formula for 30 mg
3							
4	6/1/2015	297546	30 mg	90	11/2015	Wright	No master formula for 30 mg
5	6/5/2015	297785	30 mg	90	12/15	Wright	BUD > 180 day; No master formula for 30 mg
6							

7  
8 36. Respondent Nguyen informed the inspector that she investigated domperidone in  
9 May, 2015 and discovered it was illegal in the United States. Respondent Nguyen stated that  
10 Respondent Pharmacy stopped filling domperidone prescriptions on June 4, 2015.

11 **FIRST CAUSE FOR DISCIPLINE**

12 (Against Respondents Drug Co. Pharmacy, Nguyen, Agarwal and Wright)

13 (Sold Misbranded Drugs)

14 37. Respondents are subject to disciplinary action under Code section 4301(j) for  
15 violating statutes regulating controlled substances and dangerous drugs, in that Respondents sold  
16 misbranded drugs, as defined by Health & Safety Code section 111400 and United States Code,  
17 title 21, section 352(f) in violation of Health and Safety Code section 111440, as set forth in  
18 paragraphs 29 through 36, which are incorporated herein by reference.

19 **SECOND CAUSE FOR DISCIPLINE**

20 (Against Respondents Drug Co. Pharmacy, Nguyen, Agarwal and Wright)

21 (Delivered or Proffered for Delivery Misbranded Drugs)

22 38. Respondents are subject to disciplinary action under Code section 4301(j), for  
23 violating statutes regulating controlled substances and dangerous drugs, in that Respondents  
24 delivered or proffered for delivery misbranded drugs, as defined by Health & Safety Code section  
25 111400, in violation of Health and Safety Code section 111450, as set forth in paragraphs 29  
26 through 36, which are incorporated herein by reference.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Against Respondents Drug Co. Pharmacy, Nguyen, Agarwal and Wright)

3 (Commission of Prohibited Acts)

4 39. Respondents are subject to disciplinary action under Code sections 4301(o) and/or  
5 4169(a)(3), and Health and Safety Code section 11335, in that Respondents purchased  
6 domperidone powder and dispensed compounded drug capsules containing domperidone without  
7 having an approved Investigational New Drug application on file, as set forth in paragraphs 29  
8 through 36, which are incorporated herein by reference.

9 FOURTH CAUSE FOR DISCIPLINE

10 (Against Respondents Drug Co. Pharmacy, Nguyen, Agarwal and Wright)

11 (Unprofessional Conduct)

12 40. Respondents are subject to disciplinary action under Code section 4301 for  
13 unprofessional conduct in that they engaged in the activities described in paragraphs 29 through  
14 36 above, which are incorporated herein by reference.

15 FIFTH CAUSE FOR DISCIPLINE

16 (Against Respondents Drug Co. Pharmacy and Nguyen)

17 (Failure to Prepare Written Master Formula)

18 41. Respondents are subject to disciplinary action under Code section 4301(o) for  
19 violating California Code of Regulations, title 16, section 1735.2(d), by compounding  
20 domperidone on ten occasions without first preparing the a written master formula as described in  
21 paragraphs 29 through 36 above, which are incorporated herein by reference.

22 SIXTH CAUSE FOR DISCIPLINE

23 (Against Respondents Drug Co. Pharmacy and Nguyen)

24 (Unlawful Extension of the BUD)

25 42. Respondents are subject to disciplinary action under Code section 4301(o) for  
26 violating California Code of Regulations, title 16, section 1735.2(d), by assigning a beyond use  
27 date that was greater than 180 days from the compounded date as described in paragraphs 29  
28 through 36 above, which are incorporated herein by reference.





1           2.    Revoking or suspending Pharmacist License No. RPH 50748 issued to Phuong Dung  
2 Nguyen.

3           3.    Revoking or suspending Pharmacist License RPH 66992 issued to Rohinee Agarwal.

4           4.    Revoking or suspending Pharmacist License No. RPH 32151 issued to Howard  
5 Stanley Wright.

6           5.    Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the  
7 investigation and enforcement of this case, pursuant to Business and Professions Code section  
8 125.3;

9           6.    Prohibiting Respondents Hashem Heiati and/or Phuong Dung Nguyen from serving  
10 as a manager, administrator, owner, member, officer, director, associate or partner of a licensee  
11 for a period not to exceed five years in the case of probation, or in the case of revocation, until the  
12 license is reinstated.

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

14  
15 DATED: 5/21/16



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

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