

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

In the Matter of the Accusation Against:

Case No. 6373

T & G HEALTHCARE, INC.
dba EL MONTE PHARMACY,
KHANH-LONG THAI, PRESIDENT
BRIAN TRACY GARNER, VICE PRESIDENT
3948 N. Peck Rd., Unit A1-2
El Monte, CA 91732

OAH No. 2019031138

Pharmacy Permit No. PHY 48958,

and

QUANG KHANH THAI
1431 Walnut Street
San Gabriel, CA 91776

Pharmacist License No. RPH 65617,

Respondents.

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on January 23, 2020.

It is so ORDERED on December 24, 2019.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
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7

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 **T & G HEALTHCARE, INC.**
14 **dba EL MONTE PHARMACY,**
15 **KHANH-LONG THAI, PRESIDENT**
16 **BRIAN TRACY GARNER, VICE**
17 **PRESIDENT**
3948 N. Peck Rd, Unit A1-2
El Monte, CA 91732

18 **Pharmacy Permit No. PHY 48958,**

19 and

20 **QUANG KHANH THAI**
1431 Walnut St
San Gabriel, CA 91776

21 **Original Pharmacist License No. RPH 65617**

22 Respondents.

Case No. 6373

OAH No. 2019031138

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

[QUANG KHANH THAI ONLY]

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

25 **PARTIES**

26 1. Anne Sodergren (Complainant) is the Interim Executive Officer of the Board of
27 Pharmacy (Board). She brought this action solely in her official capacity and is represented in
28

1 this matter by Xavier Becerra, Attorney General of the State of California, by Desiree Tulleners,
2 Deputy Attorney General.

3 2. Respondent Quang Khanh Thai (Respondent) is represented in this proceeding by
4 attorney Luis Andre P. Vizcocho, RPh, J.D., Of Counsel – California Pharmacy Lawyers, 49
5 Discovery, Suite 240, Irvine, CA 92618-6713, Phone: (949) 336-7854 Ext. 105; Fax: (949) 336-
6 2314.

7 3. On or about August 3, 2011, the Board issued License No. RPH 65617 to Quang
8 Khanh Thai (Respondent). The License was in full force and effect at all times relevant to the
9 charges brought in Accusation No. 6373, and will expire on February 28, 2021, unless renewed.

10 **JURISDICTION**

11 4. Accusation No. 6373 was filed before the Board, and is currently pending against
12 Respondent. The Accusation and all other statutorily required documents were properly served
13 on Respondent on September 18, 2018. Respondent timely filed his Notice of Defense contesting
14 the Accusation.

15 5. A copy of Accusation No. 6373 is attached as Exhibit A, and incorporated herein by
16 reference.

17 **ADVISEMENT AND WAIVERS**

18 6. Respondent has carefully read, fully discussed with counsel, and understands the
19 charges and allegations in Accusation No. 6373. Respondent has also carefully read, fully
20 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
21 Order.

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

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 6373.

10. Respondent agrees that his License is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in 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 his counsel. By signing the stipulation, Respondent understands and agrees that he 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 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, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order 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 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Original Pharmacist License No. RPH 65617 issued to Respondent Quang Khanh Thai is revoked. However, the revocation is stayed, and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

2. Report to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

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

6 3. **Interview with the Board**

7 Upon receipt of reasonable prior notice, respondent 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 its
9 designee. Failure to appear for any scheduled interview without prior notification to board staff,
10 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
11 the period of probation, shall be considered a violation of probation.

12 4. **Cooperate with Board Staff**

13 Respondent shall timely cooperate with the board's inspection program and with the board's
14 monitoring and investigation of respondent's compliance with the terms and conditions of his
15 probation, including but not limited to: timely responses to requests for information by board
16 staff; timely compliance with directives from board staff regarding requirements of any term or
17 condition of probation; and timely completion of documentation pertaining to a term or condition
18 of probation. Failure to timely cooperate shall be considered a violation of probation.

19 5. **Continuing Education**

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

22 6. **Reporting of Employment and Notice to Employers**

23 During the period of probation, respondent shall notify all present and prospective
24 employers of the decision in case number 6373 and the terms, conditions and restrictions imposed
25 on respondent by the decision, as follows:

26 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
27 undertaking any new employment, respondent shall report to the board in writing the name,
28 physical address, and mailing address of each of his employer(s), and the name(s) and telephone

1 number(s) of all of his direct supervisor(s), as well as any pharmacist(s)-in- charge, designated
2 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work
3 schedule, if known. Respondent shall also include the reason(s) for leaving the prior
4 employment. Respondent shall sign and return to the board a written consent authorizing the
5 board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and
6 authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,
7 concerning respondent's work status, performance, and monitoring. Failure to comply with the
8 requirements or deadlines of this condition shall be considered a violation of probation.

9 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
10 respondent undertaking any new employment, respondent shall cause (a) His direct supervisor,
11 (b) His pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
12 compliance supervisor, and (c) the owner or owner representative of His employer, to report to
13 the board in writing acknowledging that the listed individual(s) has/have read the decision in case
14 number 6373, and terms and conditions imposed thereby. If one person serves in more than one
15 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's
16 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
17 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
18 of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in
19 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
20 in case number 6373, and the terms and conditions imposed thereby.

21 If respondent works for or is employed by or through an employment service, respondent
22 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
23 of the decision in case number 6373, and the terms and conditions imposed thereby in advance of
24 respondent commencing work at such licensed entity. A record of this notification must be
25 provided to the board upon request.

26 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
27 (15) days of respondent undertaking any new employment by or through an employment service,
28 respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service

1 to report to the board in writing acknowledging that he or she has read the decision in case
2 number 6373, and the terms and conditions imposed thereby. It shall be respondent's
3 responsibility to ensure that these acknowledgment(s) are timely submitted to the board.

4 Failure to timely notify present or prospective employer(s) or failure to cause the identified
5 person(s) with that/those employer(s) to submit timely written acknowledgments to the board
6 shall be considered a violation of probation.

7 "Employment" within the meaning of this provision includes any full-time, part-time,
8 temporary, relief, or employment/management service position as a pharmacist, or any position
9 for which a pharmacist is a requirement or criterion for employment, whether the respondent is an
10 employee, independent contractor or volunteer.

11 **7. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

12 Respondent shall further notify the board in writing within ten (10) days of any change in
13 name, residence address, mailing address, e-mail address or phone number.

14 Failure to timely notify the board of any change in employer, name, address, or phone
15 number shall be considered a violation of probation.

16 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

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

21 **9. Reimbursement of Board Costs**

22 As a condition precedent to successful completion of probation, respondent shall pay to the
23 board its costs of investigation and prosecution in the amount of \$5,430.80.

24 Respondent shall be permitted to pay these costs in a payment plan approved by the board
25 or its designee, so long as full payment is completed no later than one (1) year prior to the end
26 date of probation.

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10. **Probation Monitoring Costs**

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

11. **Status of License**

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

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

12. **License Surrender While on Probation**

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may relinquish His license, including any indicia of licensure issued by the board, along with a request to surrender the license. The board or its designee shall have the discretion whether to accept the surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish His pocket and/or wall license, including any indicia of licensure not previously provided to the board within ten (10) days of notification by the board that the surrender is accepted if not already provided. Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as

1 of the date the application for that license is submitted to the board, including any outstanding
2 costs.

3 **13. Practice Requirement – Extension of Probation**

4 Except during periods of suspension, respondent shall, at all times while on probation, be
5 employed as a pharmacist in California for a minimum of 80 hours per calendar month. Any
6 month during which this minimum is not met shall extend the period of probation by one month.
7 During any such period of insufficient employment, respondent must nonetheless comply with all
8 terms and conditions of probation, unless respondent receives a waiver in writing from the board
9 or its designee.

10 If respondent does not practice as a pharmacist in California for the minimum number of
11 hours in any calendar month, for any reason (including vacation), respondent shall notify the
12 board in writing within ten (10) days of the conclusion of that calendar month. This notification
13 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the
14 interruption or reduction in practice; and the anticipated date(s) on which respondent will resume
15 practice at the required level. Respondent shall further notify the board in writing within ten (10)
16 days following the next calendar month during which respondent practices as a pharmacist in
17 California for the minimum of hours. Any failure to timely provide such notification(s) shall be
18 considered a violation of probation.

19 It is a violation of probation for respondent's probation to be extended pursuant to the
20 provisions of this condition for a total period, counting consecutive and non-consecutive months,
21 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended
22 probation period on its website.

23 **14. Remedial Education**

24 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
25 board or its designee, for prior approval, an appropriate program of remedial education related to
26 safe prescribing and/or safe opioid dispensing. The program of remedial education shall consist of
27 at least 10 hours, 50% of which must be live online webinar/in-person, which shall be completed
28 each year of probation at respondent's own expense. All remedial education shall be in addition

1 to, and shall not be credited toward, continuing education (CE) courses used for license renewal
2 purposes for pharmacists.

3 Failure to timely submit for approval or complete the approved remedial education shall be
4 considered a violation of probation. The period of probation will be automatically extended until
5 such remedial education is successfully completed and written proof, in a form acceptable to the
6 board, is provided to the board or its designee.

7 Following the completion of each course, the board or its designee may require the
8 respondent, at His own expense, to take an approved examination to test the respondent's
9 knowledge of the course. If the respondent does not achieve a passing score on the examination
10 that course shall not count towards satisfaction of this term. Respondent shall take another course
11 approved by the board in the same subject area.

12 **15. No Ownership or Management of Licensed Premises**

13 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
14 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
15 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
16 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
17 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
18 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
19 that interest, but only to the extent of that position or interest as of the effective date of this
20 decision. Violation of this restriction shall be considered a violation of probation.

21 **16. Violation of Probation**

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

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1 If respondent violates probation in any respect, the board, after giving respondent notice
2 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
3 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
4 probation, or the preparation of an accusation or petition to revoke probation is requested from
5 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
6 probation shall be automatically extended until the petition to revoke probation or accusation is
7 heard and decided.

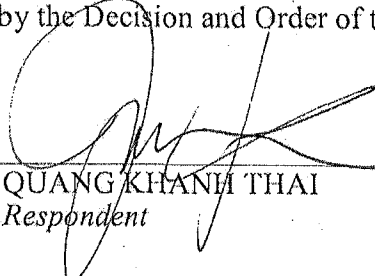
8 **17. Completion of Probation**

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

11
12 **ACCEPTANCE**

13 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
14 discussed it with my attorney. I understand the stipulation and the effect it will have on my
15 License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly,
16 and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

17
18 DATED: 7/29/2019


19 QUANG KHANH THAI
20 Respondent

21 I have read and fully discussed with Respondent Quang Khanh Thai the terms and
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
23 I approve its form and content.

24
25 DATED: 7/30/2019


26 LUIS ANDRE P. VIZCOCHO, RPh, J.D.
27 Attorney for Respondent
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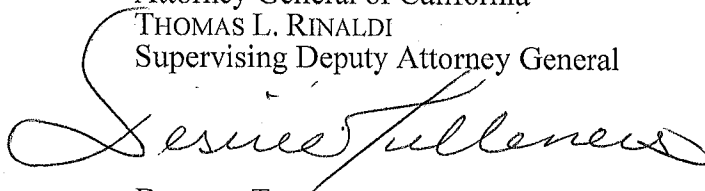
ENDORSEMENT

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

DATED: 7-31-19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General



DESIREE TULLENERS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 6373

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 DESIREE TULLENERS
Deputy Attorney General
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Attorneys for Complainant

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BRIAN TRACY GARNER, VICE PRESIDENT
3948 N. Peck Rd, Unit A1-2
El Monte, CA 91732

A C C U S A T I O N

15 **Permit No. PHY 48958**

16 and

17 **QUANG KHANH THAI**
18 1431 Walnut Street
San Gabriel, CA 91776

19 **Pharmacist License No. RPH 65617**

20 Respondents.
21

22
23 Complainant alleges:

24 **PARTIES**

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

27 2. On or about May 22, 2008, the Board of Pharmacy ("Board") issued Pharmacy
28 Permit Number PHY 48958 to T & G Healthcare, Inc., dba El Monte Pharmacy, with Khanh-

1 Long Thai, President, and Brian Tracy Garner, Vice President (Respondent Pharmacy). The
2 Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein,
3 and will expire on May 1, 2019, unless renewed.

4 3. On or about August 3, 2011, the Board of Pharmacy issued Original Pharmacist
5 License No. RPH 65617 to Quang Khanh Thai (Respondent Thai). The Pharmacy Permit was in
6 full force and effect at all times relevant to the charges brought herein and will expire on February
7 28, 2019, unless renewed.

8 JURISDICTION

9 4. This Accusation is brought before the Board of Pharmacy (Board), Department of
10 Consumer Affairs, under the authority of the following laws. All section references are to the
11 Business and Professions Code unless otherwise indicated.

12 5. Section 4300 of the Code provides, in pertinent part:

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

14 6. Section 118, subdivision (b), of the Code provides that the expiration of a license
15 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
16 within which the license may be renewed, restored, reissued or reinstated.

17 7. Section 4300.1 of the Code states:

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

23 8. Section 4301 of the Code provides, in pertinent part:

24 "The board shall take action against any holder of a license who is guilty of unprofessional
25 conduct. . . . Unprofessional conduct shall include, but is not limited to, any of the following:

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

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1 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice
2 of pharmacy.”

3 COST RECOVERY

4 12. Section 125.3 of the Code states, in pertinent part, that the Board may request the
5 administrative law judge to direct a licensee found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 CONTROLLED SUBSTANCES

9 13. Pursuant to Health and Safety Code section 11058, Promethazine HCl and Codeine
10 Phosphate oral solution is a Schedule V controlled substance. Codeine is a narcotic. It is a pain
11 reliever and a cough suppressant. Promethazine is an antihistamine. It blocks the effects of the
12 naturally occurring chemical histamine in the human body. The pharmaceutically indicated¹ use
13 for the combination of codeine and promethazine is to treat cold or allergy symptoms such as
14 runny nose, sneezing, and cough.

15 FIRST CAUSE FOR DISCIPLINE

16 *(Failure to Comply with Operational Standards and Security)*

17 14. Respondent Pharmacy is subject to disciplinary action under California Code of
18 Regulations, title 16, section 1714, subdivision (b), in that it failed to maintain its facilities, space,
19 fixtures and equipment as required by pharmacy law. The circumstances are as follows:

20 15. Between October 21, 2014 and August 4, 2017, Respondent Pharmacy, located at
21 3948 North Peck Road, Unit A1-2 in El Monte California, lost 173,160 ml of promethazine with
22 codeine from inventory.

23 SECOND CAUSE FOR DISCIPLINE

24 *(Failure to Comply with Operational Standards and Security)*

25
26 ¹ “Purple drank” is a slang term for the prescription-strength cough syrup containing
27 codeine and promethazine. The cough syrup, used in doses much higher than medically
28 recommended, is typically mixed with ingredients such as the soft drinks Sprite or Mountain Dew
and optionally “a Jolly Rancher hard fruit candy thrown in for extra sweetness. The purplish hue
of purple drank comes from dyes in the cough syrup. The amount of cough syrup used can exceed
up to 25 times the recommended dose.

1 16. Respondent Thai is subject to disciplinary action under section 4113, subdivision (c),
2 in conjunction with California Code of Regulations, title 16, section 1714, subdivision (b), in that
3 he failed to comply with all state and federal law and regulations pertaining to the practice of
4 pharmacy security to prevent a loss of this magnitude. The circumstances are as follows:

5 17. Between October 21, 2014 and June 15, 2017, while Respondent was pharmacist-in-
6 charge of Respondent Pharmacy, located at 3948 North Peck Road, Unit A1-2 in El Monte
7 California, Respondent Pharmacy lost 173,113 ml of promethazine with codeine from inventory.

8 THIRD CAUSE FOR DISCIPLINE

9 *(Unprofessional Conduct - Violation of State and Federal Law*

10 *Regulating Controlled Substances and Dangerous Drugs)*

11 18. Respondent Thai is subject to disciplinary action under section 4301, subdivision (j),
12 in that he committed unprofessional conduct by violating state and federal statutes and regulations
13 regulating controlled substances and dangerous drugs, as set forth fully in paragraphs 15 and 16
14 above.

15 FOURTH CAUSE FOR DISCIPLINE

16 *(Unprofessional Conduct - Violation of Pharmacy Law and State and Federal Regulations*

17 19. Respondent Thai is subject to disciplinary action under section 4301, subdivision (o),
18 in that he committed unprofessional conduct by violating pharmacy law or applicable federal and
19 state laws and regulations governing pharmacy, including regulations established by the board or
20 by any other state or federal regulatory agency, as set forth fully in paragraphs 15 and 16 above.

21 DISCIPLINARY CONSIDERATIONS

22 20. In determining the degree of discipline to be imposed against Respondent Pharmacy
23 in this matter, if any, Complainant alleges that on December 21, 2017, the Board issued
24 Respondent Pharmacy a *Letter of Admonishment* pursuant to section 4315 and Health and Safety
25 Code section 11165, subdivision (d)(2), for failing to report the correct prescriber information to
26 CURES for each controlled substance Schedule 2 through 4 prescription dispensed between
27 February 20, 2014 and June 12, 2015. Pursuant to the CURES report, Respondent Pharmacy
28 processed the following 8 controlled substance prescriptions under incorrect prescriber John M.

1 Hernandez, O.D., an optometrist, (DEA #MH0678245), instead of the correct prescriber John M.
2 Hernandez, M.D., a medical doctor, (DEA #BH0428993), as follows:

- 3 a. Norco-Rx #820247 filled February 20, 2014;
- 4 b. Norco-Rx #834042 filled May 7, 2014;
- 5 c. Norco-Rx #892644 filled August 14, 2014;
- 6 d. Norco-Rx #933322 filled November 22, 2014;
- 7 e. Norco-Rx #959898 filled January 23, 2015;
- 8 f. Norco-Rx #979342 filled March 7, 2015;
- 9 g. Norco-Rx #1008202 filled May 13, 2015; and
- 10 h. Norco-Rx #1021462 filled June 12, 2015.

11 OTHER MATTERS

12 21. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
13 PHY 48958 issued to T & G Healthcare, Inc. dba El Monte Pharmacy, T & G Healthcare, Inc.
14 dba El Monte Pharmacy shall be prohibited from serving as a manager, administrator, owner,
15 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
16 Number PHY 48958 is placed on probation or until Pharmacy Permit Number PHY 48958 is
17 reinstated if it is revoked.

18 22. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
19 PHY 48958 issued to T & G Healthcare, Inc. dba El Monte Pharmacy while Quang Khanh Thai
20 has been an officer and owner and had knowledge of or knowingly participated in any conduct
21 for which the licensee was disciplined, Quang Khanh Thai shall be prohibited from serving as a
22 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
23 five years if Pharmacy Permit Number PHY 48958 is placed on probation or until Pharmacy
24 Permit Number PHY 48958 is reinstated if it is revoked.

25 23. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
26 Number RPH 65617 issued to Quang Khanh Thai, Quang Khanh Thai shall be prohibited from
27 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
28

1 licensee for five years if Pharmacist License Number RPH 65617 is placed on probation or until
2 Pharmacist License Number RPH 65617 is reinstated if it is revoked.

3 PRAYER

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

6 1. Revoking or suspending Pharmacy Permit Number PHY 48958, issued to T & G
7 Healthcare, Inc. dba El Monte Pharmacy, with Khanh-Long Thai, President, and Brian Tracy
8 Garner, Vice President;

9 2. Revoking or suspending Original Pharmacist Permit Number RPH 65617 issued to
10 Quang Khanh Thai;

11 3. Prohibiting T & G Healthcare, Inc. doing business as El Monte Pharmacy from
12 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
13 licensee for five years if Pharmacy Permit Number PHY 48958 is placed on probation or until
14 Pharmacy Permit Number PHY 48958 is reinstated if Pharmacy Permit Number PHY 48958
15 issued to T & G Healthcare, Inc. doing business as El Monte Pharmacy is revoked;

16 4. Prohibiting Quang Khanh Thai from serving as a manager, administrator, owner,
17 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
18 Number PHY 48958 is placed on probation or until Pharmacy Permit Number PHY 48958 is
19 reinstated if Pharmacy Permit Number PHY 48948 issued to T & G Healthcare, Inc. doing
20 business as El Monte Pharmacy is revoked;

21 5. Prohibiting Quang Khanh Thai from serving as a manager, administrator, owner,
22 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
23 Number RPH 65617 is placed on probation or until Pharmacist License Number RPH 65617 is
24 reinstated if Pharmacist License Number RPH 65617 issued to Quang Khanh Thai is revoked;

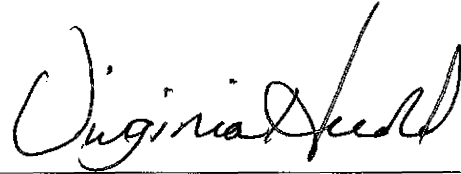
25 6. Ordering T & G Healthcare, Inc. doing business as El Monte Pharmacy and/or Quang
26 Khanh Thai to pay the Board of Pharmacy the reasonable costs of the investigation and
27 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

28 ///

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

DATED: _____

9/2/18



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