

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

In the Matter of the Accusation Against:

**RIVERBANK PHARMACY INC. dba RIVERBANK PHARMACY; WESLEY
KOKKIEN YONG AND NU YONG, Owners**

Pharmacy Permit No. PHY 50794

And

WESLEY KOKKIEN YONG

Pharmacist License No. RPH 37715

Respondents

Agency Case No. 6784

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on August 26, 2020.

It is so ORDERED on July 27, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 KAREN R. DENVIR
Supervising Deputy Attorney General
3 KATELYN E. DOCHERTY
Deputy Attorney General
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 6784

13 **RIVERBANK PHARMACY INC. dba**
RIVERBANK PHARMACY;
14 **WESLEY KOKKIEN YONG AND**
NU YONG, Owners
15 2603 Patterson Road, #9
Riverbank, CA 95367

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 **Pharmacy Permit No. PHY 50794,**

17 **and**

18 **WESLEY KOKKIEN YONG**
19 8801 Oak View Court
Oakdale, CA 95361

20 **Pharmacist License No. RPH 37715**

21 Respondents.
22

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

26 **PARTIES**

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

1 Xavier Becerra, Attorney General of the State of California, by Katelyn E. Docherty, Deputy
2 Attorney General.

3 2. On or about January 23, 2012, the Board of Pharmacy issued Pharmacy Permit
4 Number PHY 50794 to Riverbank Pharmacy Inc. doing business as Riverbank Pharmacy
5 (Respondent Riverbank) with Nu Yong designated as President and the owner of fifty percent of
6 the outstanding shares and Wesley Kokkien Yong designated as the Pharmacist-in-Charge, and as
7 owner of fifty percent of the outstanding shares. The Pharmacy Permit was canceled on August
8 15, 2019 due to a discontinuance of business effective April 25, 2019.

9 3. On or about April 22, 1983, the Board of Pharmacy issued Pharmacist License
10 Number RPH 37715 to Wesley Kokkien Yong (Respondent Yong). The pharmacist license was
11 in full force and effect at all times relevant to the charges brought herein and will expire on June
12 30, 2022, unless renewed.

13 4. Respondents Riverbank and Yong are represented by attorney Herbert L. Weinberg,
14 PharmD, whose address is 1990 South Bundy Drive, Suite 777, Los Angeles, California 90025.

15 **JURISDICTION**

16 5. Accusation No. 6784 was filed before the Board, and is currently pending against
17 Respondents. The Accusation and all other statutorily required documents were properly served
18 on Respondents on May 7, 2020. Respondents timely filed its Notice of Defense contesting the
19 Accusation. A copy of Accusation No. 6784 is attached as Exhibit A and incorporated by
20 reference.

21 **ADVISEMENT AND WAIVERS**

22 6. Respondents have carefully read, fully discussed with counsel, and understand the
23 charges and allegations in Accusation No. 6784. Respondents also have carefully read, fully
24 discussed with counsel, and understand the effects of this Stipulated Surrender of License and
25 Order.

26 7. Respondents are fully aware of their legal rights in this matter, including the right to a
27 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
28 the witnesses against them; the right to present evidence and to testify on their own behalf; the

1 right to the issuance of subpoenas to compel the attendance of witnesses and the production of
2 documents; the right to reconsideration and court review of an adverse decision; and all other
3 rights accorded by the California Administrative Procedure Act and other applicable laws.

4 8. Respondents voluntarily, knowingly, and intelligently waives and give up each and
5 every right set forth above.

6 **CULPABILITY**

7 9. Respondents understand that the charges and allegations in Accusation 6784, if
8 proven at a hearing, constitute cause for imposing discipline.

9 10. For the purpose of resolving the Accusation without the expense and uncertainty of
10 further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual
11 basis for the charges in the Accusation and that those charges constitute cause for discipline.
12 Respondents hereby gives up their right to contest that cause for discipline exists based on those
13 charges.

14 11. Respondent Yong agrees that his Pharmacist License is subject to discipline and
15 agrees to be bound by the Disciplinary Order below. Respondent Riverbank agrees that its
16 Pharmacy Permit is subject to discipline and agrees to be bound by the Disciplinary Order below.

17 **CONTINGENCY**

18 12. This stipulation shall be subject to approval by the Board. Respondents understand
19 and agrees that counsel for Complainant and the staff of the Board may communicate directly
20 with the Board regarding this stipulation and surrender, without notice to or participation by
21 Respondents or their counsel. By signing the stipulation, Respondents understands and agrees
22 that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the
23 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
24 Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for
25 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
26 not be disqualified from further action by having considered this matter.

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

14. This Stipulated Surrender of License and 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 Surrender of License and 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.

15. 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 Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Permit Number PHY 50794 issued to Riverbank Pharmacy Inc. doing business as Riverbank Pharmacy, is surrendered and accepted by the Board in resolution of Accusation No. 6784, attached as exhibit A.

IT IS FURTHER ORDERED that Pharmacist License Number RPH 37715, issued to Respondent Wesley Yong, is surrendered and accepted by the Board in resolution of Accusation No. 6784, attached as exhibit A.

1. The surrender of Respondent Riverbank's Permit and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. The surrender of Respondent Yong's Pharmacist license and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

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1 3. Respondent Riverbank shall lose all rights and privileges as a Pharmacy in California
2 as of the effective date of the Board's Decision and Order.

3 4. Respondent Yong shall lose all rights and privileges as a Pharmacist in California as
4 of the effective date of the Board's Decision and Order.

5 5. Respondents shall cause to be delivered to the Board their pocket license and, if one
6 was issued, their wall certificate on or before the effective date of the Decision and Order.

7 6. If Respondents Riverbank and Yong ever file an application for licensure or a petition
8 for reinstatement in the State of California, the Board shall treat it as a new application for
9 licensure and shall not be eligible to petition for reinstatement of licensure.

10 7. Respondents Riverbank and Yong, shall be jointly and severally liable in the amount
11 of \$9,326.00 to the Board for its cost associated with investigation and enforcement of this matter
12 prior to issuance of a new or reinstated license.

13 8. If Respondents Riverbank and Yong should ever apply or reapply for a new license or
14 certification, or petition for reinstatement of a license, by any other health care licensing agency
15 in the State of California, all of the charges and allegations contained in Accusation No. 6784
16 shall be deemed to be true, correct, and admitted by Respondents for the purpose of any
17 Statement of Issues or any other proceeding seeking to deny or restrict licensure.

18 9. Respondents may not apply for any licensure, permit, or registration from the Board
19 for three years from the effective date of this decision.

20 10. Respondent Riverbank shall, within ten days of the effective date, arrange for the
21 destruction of, the transfer to, sale of or storage in a facility licensed and approved by the board of
22 all controlled substances and dangerous drugs and or dangerous deceives. Respondent Riverbank
23 shall further arrange for the transfer of all records of acquisition and disposition of dangerous
24 drugs to premises licensed and approved by the board. Respondent Riverbank shall further
25 provide written proof of such disposition and submit a completed Discontinuance of Business
26 form according to board guidelines.

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ACCEPTANCE

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

DATED: _____
RIVERBANK PHARMACY INC. dba
RIVERBANK PHARMACY
Respondent

By: _____

Print Name

ACCEPTANCE

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

DATED: _____
WESLEY YONG;
Respondent

APPROVAL AS TO FORM AND CONTENT

I have read and fully discussed with Respondents Riverbank and Yong the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: _____
HERBERT L. WEINBERG
Attorney for Respondent

///

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of License and Order and have fully
3 discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it
4 will have on my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 Board of Pharmacy.

7 DATED: 6/24 2020

Wesley Yong
RIVERBANK PHARMACY INC. dba
RIVERBANK PHARMACY
Respondent

10 By: WESLEY YONG K. YONG
11 Print Name

12 ACCEPTANCE

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

18 DATED: 6/24 2020

Wesley Yong
WESLEY YONG;
Respondent

21 APPROVAL AS TO FORM AND CONTENT

22 I have read and fully discussed with Respondents Riverbank and Yong the terms and
23 conditions and other matters contained in this Stipulated Surrender of License and Order. I
24 approve its form and content.

25 DATED: 6/24/2020

Herbert L. Weinberg
HERBERT L. WEINBERG
Attorney for Respondent

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ENDORSEMENT

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

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
KAREN R. DENVIR
Supervising Deputy Attorney General

KATELYN E. DOCHERTY
Deputy Attorney General
Attorneys for Complainant

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DATED: June 25, 2020

XAVIER BECERRA
Attorney General of California
KAREN R. DENVIR
Supervising Deputy Attorney General

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Exhibit A

Accusation No. 6784

1 XAVIER BECERRA
Attorney General of California
2 DAVID E. BRICE
Supervising Deputy Attorney General
3 KATELYN E. DOCHERTY
Deputy Attorney General
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1300 I Street, Suite 125
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6 Telephone: (916) 210-6277
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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14 **RIVERBANK PHARMACY;**
15 **WESLEY KOKKIEN YONG AND**
16 **NU YONG, Owners**
2603 Patterson Road, #9
Riverbank, CA 95367

ACCUSATION

17 **Pharmacy Permit No. PHY 50794,**

18 **and**

19 **WESLEY KOKKIEN YONG**
8801 Oak View Court
20 Oakdale, CA 95361

21 **Pharmacist License No. RPH 37715**

22 Respondents.

23
24 **PARTIES**

25 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
26 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
27
28

2. On or about January 23, 2012, the Board of Pharmacy issued Pharmacy Permit Number PHY 50794 to Riverbank Pharmacy Inc. doing business as Riverbank Pharmacy (Respondent Riverbank) with Nu Yong designated as President and the owner of fifty percent of the outstanding shares and Wesley Kokkien Yong designated as the Pharmacist-in-Charge, and as owner of fifty percent of the outstanding shares. The Pharmacy Permit was canceled on August 15, 2019 due to a discontinuance of business effective April 25, 2019.

3. On or about April 22, 1983, the Board of Pharmacy issued Pharmacist License Number RPH 37715 to Wesley Kokkien Yong (Respondent Yong). The pharmacist license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2020, unless renewed.

JURISDICTION

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

5. Code section 4011 provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code §§ 4000, *et seq.*] and the Uniform Controlled Substances Act [Health & Safety Code §§ 11000, *et seq.*].

6. Code section 4300 states, in pertinent part:

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

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

...

1 7. Code section 4300.1 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
5 by a licensee shall not deprive the board of jurisdiction to commence or
6 proceed with any investigation of, or action or disciplinary proceeding against,
7 the licensee or to render a decision suspending or revoking the license.

8 8. Code section 4307 provides, in pertinent part:

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
11 while it was under suspension, or who has been a manager, administrator,
12 owner, member, officer, director, associate, partner, or any other person with
13 management or control of any partnership, corporation, trust, firm, or
14 association whose application for a license has been denied or revoked, is under
15 suspension or has been placed on probation, and while acting as the manager,
16 administrator, owner, member, officer, director, associate, partner, or any other
17 person with management or control had knowledge of or knowingly participated
18 in any conduct for which the license was denied, revoked, suspended, or placed
19 on probation, shall be prohibited from serving as a manger, administrator,
20 owner, member, officer, director, associate, partner, or in any other position
21 with management or control of a licensee as follows:

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

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

27 (b) Manager, administrator, owner, member, officer, director, associate,
28 partner, or any other person with management or control of a license as used in
29 this section and Section 4308, may refer to a pharmacist or to any other person
30 who serves in such capacity in or for a licensee.

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

• • • •

• • • •

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

11. Code section 4022 of the Code states in pertinent part:

(a) Any drug that bears the legend: Caution: federal law prohibits dispensing without prescription, Rx only, or words of similar import.

(b) Any device that bears the statement: Caution: federal law restricts this device to sale by or on the order of a _____, Rx only, or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

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12. Code section 4081 of the Code states in pertinent part:

(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, outsourcing facility, physician, dentist, podiatrist, veterinarian, laboratory, licensed correctional clinic, as defined in Section 4187 , 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.

13. Code section 4105 states, in pertinent part:

(a) All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form.

....

(c) The records required by this section shall be retained on the licensed premises for a period of three years from the date of making.

(d) Any records that are maintained electronically shall be maintained so that the pharmacist-in-charge, the pharmacist on duty if the pharmacist-in-charge is not on duty, or, in the case of a veterinary food-animal drug retailer or wholesaler, the designated representative on duty, shall, at all times during which the licensed premises are open for business, be able to produce a hard copy and electronic copy of all records of acquisition or disposition or other drug or dispensing-related records maintained electronically . . .

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14. Code section 4332 of the Code states:

Any person who fails, neglects, or refuses to maintain the records required by Section 4081 or who, when called upon by an authorized officer or a member of the board, fails, neglects, or refuses to produce or provide the records within a reasonable time, or who willfully produces or furnishes records that are false, is guilty of a misdemeanor.

HEALTH & SAFETY CODE

15. Health & Safety Code section 11208, states:

In a prosecution under this division, proof that a defendant received or has had in his possession at any time a greater amount of controlled substances than is accounted for by any record required by law or that the amount of controlled substances possessed by the defendant is a lesser amount than is accounted for by any record required by law is prima facie evidence of guilt.

FEDERAL REGULATIONS

16. Code of Federal Regulations, title 21, section 1304.11, states in pertinent part:

(a) General requirements. Each inventory shall contain a complete and accurate record of all controlled substances on hand on the date the inventory is taken, and shall be maintained in written, typewritten, or printed form at the registered location. An inventory taken by use of an oral recording device must be promptly transcribed. Controlled substances shall be deemed to be "on hand" if they are in the possession of or under the control of the registrant, including substances returned by a customer, ordered by a customer but not yet invoiced, stored in a warehouse on behalf of the registrant, and substances in the possession of employees of the registrant and intended for distribution as complimentary samples. A separate inventory shall be made for each registered location and each independent activity registered, except as provided in paragraph (e)(4) of this section. In the event controlled substances in the possession or under the control of the registrant are stored at a location for which he/she is not registered, the substances shall be included in the inventory of the registered location to which they are subject to control or to which the person possessing the substance is responsible. The inventory may be taken either as of opening of business or as of the close of business on the inventory date and it shall be indicated on the inventory.

...

(c) Biennial inventory date. After the initial inventory is taken, the registrant shall take a new inventory of all stocks of controlled substances on hand at least every two years. The biennial inventory may be taken on any date which is within two years of the previous biennial inventory date.

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1 **CALIFORNIA REGULATIONS**

2 17. California Code of Regulations, title 16 (“CCR”), section 1714, states in pertinent
3 part:

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

7 18. CCR, section 1718, states:

8 “Current Inventory” as used in Sections 4081 and 4332 of the Business and
9 Professions Code shall be considered to include complete accountability for all
dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

10 The controlled substances inventories required by Title 21, CFR, Section 1304
11 shall be available for inspection upon request for at least 3 years after the date of the
inventory.

12 **COST RECOVERY**

13 19. Code section 125.3 states, in pertinent part, that the Board may request the
14 administrative law judge to direct a licentiate found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 **DEFINITIONS**

18 20. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
19 section 11055 subdivision (b)(1)(M). Oxycodone is also a dangerous drug pursuant to Code
20 section 4022, and is used to treat pain. “Percolone” and “Roxicodone” are brand names for
21 oxycodone.

22 21. Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code
23 section 11057, subdivision (d)(1). Alprazolam is also a dangerous drug pursuant to Code section
24 4022 and is used to treat anxiety. “Xanax” is a brand name for alprazolam.

25 22. Promethazine with Codeine Syrup (PCS) is a schedule V controlled substance
26 pursuant to Health and Safety Code section 11058 and a dangerous drug pursuant to Business and
27 Professions Code section 4022.

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23. Hydrocodone/acetaminophen (APAP) is a schedule II controlled substance pursuant to Health and Safety Code section 11055 and a dangerous drug pursuant to Business and Professions Code section 4022. "Norco" is a brand name for hydrocodone / acetaminophen (APAP).

FACTUAL ALLEGATIONS

24. On or about March 11, 2019, AmerisourceBergen submitted a letter to the Board regarding the termination of all controlled substance sales to Respondent Riverbank as of January 31, 2019.

25. On or about April 25, 2019, Board Inspector S.K. went to Respondent Riverbank, in Riverbank, California, to conduct an inspection. Inspector S.K. discovered upon arrival at Respondent Riverbank that the pharmacy had been closed. On the door of Respondent Riverbank was a sign that stated patients could go to any CVS Pharmacy to have their prescriptions filled.

26. Board Inspector S.K. went to CVS Pharmacy #3079, in Riverbank, California, to see if he could obtain information and records regarding Respondent Riverbank.

27. Board Inspector S.K. was informed that Respondent Riverbank terminated its business and sold or transferred all of its dangerous drugs to CVS Pharmacy #3079 on or around April 9, 2019.

28. CVS staff pharmacist W.A. informed Inspector S.K. that CVS Pharmacy #3079 had acquired all of Respondent Riverbank's drugs and prescription records after it was purchased by CVS.

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29. Board Inspector S.K. performed an audit of Respondent Riverbank's controlled substance records for approximately three years of inventory from March 15, 2016, through April 9, 2019. The audit showed the following discrepancies, for which Respondents could not account:

Drug	Beginning Inventory ¹	Total Purchased	Total Dispensed and returned	Inventory ²	Variance
Alprazolam 2 mg	0	147,300	18,404	476	-128,420
Hydrocodone/APAP 10/325 mg	0	750,800	731,377	71	-19,352
Oxycodone 30 mg	0	76,300	75,461	696	-143
Promethazine/codeine ml	0	324,951	63,733	10	-261,208

Respondent Riverbank

FIRST CAUSE FOR DISCIPLINE

(Failure to Maintain Current Inventory)

30. Respondent Riverbank is subject to disciplinary action under Code sections 4301, subdivisions (j) and (o), for violations of sections 4081, and 4332 of the Code, California Code of Regulations, title 16, section 1718, and Title 21 of the Code of Federal Regulations, part 1304, section 11, in that, Respondent Riverbank failed to document whether controlled substance inventories were completed before or after closing of business on the following dates:

- a. June 22, 2015
- b. January 3, 2016
- c. January 3, 2017
- d. April 1, 2018
- e. June 5, 2018
- f. January 2, 2019
- g. January 3, 2019

¹ March 15, 2016, is the beginning of the audit period. Investigator S.K. assumed no drug was in stock from the beginning of the audit, due to it being unclear as to quantities in stock at Respondent Riverbank at given dates.

² April 9, 2019, is the last day that Respondent Riverbank was open.

1 h. January 10, 2019

2 **SECOND CAUSE FOR DISCIPLINE**

3 **(Improper Operational Standards, Security, and Record Maintenance)**

4 31. Respondent Riverbank is subject to disciplinary action for unprofessional conduct
5 pursuant to Code section 4301, subdivisions (o) and (j), in that Respondent Riverbank failed to
6 maintain the pharmacy and its facilities, space, fixtures and/or equipment so that drugs were
7 safely and properly secured, in violation of Title 16, CCR, section 1714, subdivision (b), in that
8 Respondent Riverbank had lesser amounts of controlled substances in stock than indicated by its
9 required records, as describe in paragraph 29, above.

10 **Respondent Yong**

11 Respondent Yong was pharmacist-in-charge of Respondent Riverbank at all relevant times.
12 Respondent Yong is therefore responsible under Code section 4113 subdivision (c) for
13 Respondent Riverbank's compliance with all state and federal laws and regulations pertaining to
14 pharmacy practice.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Failure to Maintain Current Inventory)**

17 32. Respondent Yong is subject to disciplinary action under Code sections 4113
18 subdivision (c), 4301, subdivisions (j) and (o), for violations of 4081, and 4332 of the Code, and
19 California Code of Regulations, title 16, section 1718, as a pharmacist-in-charge, in that,
20 Respondent Yong failed to ensure controlled substance inventories of Respondent Riverbank
21 were properly completed, as described in paragraph 30, above.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Improper Operational Standards, Security, and Record Maintenance)**

3 33. Respondent Yong is subject to disciplinary action for unprofessional conduct
4 pursuant to Code sections 4113 subdivisions (c), 4301, subdivisions (o) and (j), in that
5 Respondent Yong failed to maintain Respondent Riverbank and its facilities, space, fixtures
6 and/or equipment so that drugs were safely and properly secured, in violation of Title 16, CCR,
7 section 1714, subdivision (b), as a pharmacist-in-charge, in that Respondent Yong failed to
8 account for any controlled substance discrepancy discovered in the audit performed by the Board
9 Inspector S.K. The circumstances are described in paragraph 31, above.

10 **OTHER MATTERS**

11 34. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
12 50794 issued to Riverbank Pharmacy Inc. doing business as Riverbank Pharmacy, then Riverbank
13 Pharmacy, Inc. shall be prohibited from serving as a manager, administrator, owner, member,
14 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number
15 PHY 50794 is placed on probation or until Pharmacy Permit Number PHY 50794 is reinstated if
16 it is revoked.

17 35. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
18 50794 issued to Riverbank Pharmacy Inc. doing business as Riverbank Pharmacy, Inc. doing
19 while Nu Yong has been an owner or manager and had knowledge of or knowingly participated
20 in any conduct for which the licensee was disciplined, Nu Yong shall be prohibited from serving
21 as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee
22 for five years if Pharmacy Permit Number PHY 50794 is placed on probation or until Pharmacy
23 Permit Number PHY 50794 is reinstated if it is revoked.

24 36. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
25 50794 issued to Riverbank Pharmacy Inc. doing business as Riverbank Pharmacy, Inc. doing
26 while Wesley Kokkien Yong has been an owner or manager and had knowledge of or knowingly
27 participated in any conduct for which the licensee was disciplined, Wesley Kokkien Yong shall
28 be prohibited from serving as a manager, administrator, owner, member, officer, director,

1 associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50794 is
2 placed on probation or until Pharmacy Permit Number PHY 50794 is reinstated if it is revoked.

3 37. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No.
4 RPH 37715 issued to Wesley Kokkien Yong shall be prohibited from serving as a manager,
5 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
6 Pharmacist License Number RPH 37715 is placed on probation or until Pharmacist License
7 Number RPH 37715 is reinstated if it is revoked.

8 **PRAYER**

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

11 1. Revoking or suspending Pharmacy Permit Number PHY 50794, issued to Riverbank
12 Pharmacy Inc., doing business as Riverbank Pharmacy;

13 2. Revoking or suspending Pharmacist License Number RPH 37715, issued to Wesley
14 Kokkien Yong;

15 3. Prohibiting Riverbank Pharmacy, Inc., doing business as Riverbank Pharmacy from
16 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
17 licensee for five years if Pharmacy Permit Number PHY 50794 is placed on probation or until
18 Pharmacy Permit Number PHY 50794 is reinstated if Pharmacy Permit Number PHY 50794 is
19 revoked;


20 4. Prohibiting Nu Yong and Wesley Kokkien Yong from serving as a manager,
21 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
22 Pharmacy Permit Number PHY 50794 is placed on probation or until Pharmacy Permit Number
23 PHY 50794 is reinstated if Pharmacy Permit Number PHY 50794 is revoked;

24 5. Prohibiting Wesley Kokkien Yong from serving as a manager, administrator, owner,
25 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
26 Number RPH 37715 is placed on probation or until Pharmacist License Number RPH 37715 is
27 reinstated if Pharmacist License Number RPH 37715 is revoked
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1 6. Ordering Riverbank Pharmacy, Inc., doing business as Riverbank Pharmacy; Nu
2 Yong, and Wesley Kokkien Yong to pay the Board of Pharmacy the reasonable costs of the
3 investigation and enforcement of this case, pursuant to Business and Professions Code section
4 125.3; and,

5 7. Taking such other and further action as deemed necessary and proper.
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8 DATED: April 30, 2020
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ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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